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Vol. II

TRANSCRIPT OF RECORD

(Pages 839 to 1056)

Supreme Court of the United States

OCTOBER TERM, 1945.

No. 342

STEVE ANDERSSON, EARL TROMBLEY, LILLIAN SOCIA, ET AL., PETITIONERS,

vs.

MT. CLEMENS POTTERY COMPANY

ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE SIXTH CIRCUIT

PETITION FOR CERTIORARI FILED AUGUST 30, 1945.

CERTIORARI GRANTED OCTOBER 15, 1945.

Supreme Court of the United States

OCTOBER TERM, 1945

No. 342

STEVE ANDERSON, EARL TROMBLEY, LILLIAN SOCIA, ALBERT WATKINS, ARTHUR SIBBE, NELSON LUCHTMAN, RITA SCHULTE, individually, for and in behalf of themselves and others similarly situated; and LOCAL No. 1083, UNITED POTTERY WORKERS OF AMERICA, Affiliated with the Congress of Industrial Organizations, Mt. Clemens, Michigan,

Petitioners,

vs.

MT. CLEMENS POTTERY COMPANY,

Respondent.

TRANSCRIPT OF RECORD

On Petition for Writ of Certiorari to the United States Circuit Court of Appeals for the Sixth Circuit

(VOL. II—Index and Pages 529 to 1056, Inclusive)

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No. .....

United States of America

IN THE

United States Circuit Court of Appeals

FOR THE SIXTH CIRCUIT

MT. CLEMENS POTTERY COMPANY,

Appellant,

vs.

STEVE ANDERSON, EARL TROMBLEY, LILLIAN SOCIA, ALBERT WATKINS, ARTHUR SIBBE, NELSON LUCHTMAN, RITA SCHULTE, individually, for and in behalf of themselves and others similarly situated; and LOCAL 1083, UNITED POTTERY WORKERS OF AMERICA, Affiliated with the Congress of Industrial Organizations, Mt. Clemens, Michigan,

Appellees

Appeal From the District Court of the United States for the Eastern District of Michigan, Southern Division.
Civil Action No. 2582

TRANSCRIPT OF RECORD

(VOL. II—Index and Pages 529 to 1056, Inclusive)

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A. No, they didn't.
Q. They could walk as much as two abreast?
A. I know they could. I have seen them do it.
Q. It would be a tight squeeze, wouldn't it?
A. No.
Q. After you got to the end of that aisle, would you walk over a bridge across the belt?
A. Yes.
Q. How wide was that bridge? . . .
A. About four feet.
Q. About four feet wide. That was about the same width as the aisle, was it?
A. No, it wasn't as wide as the aisle.
Q. Then after you got over that bridge, then would you walk along another aisle alongside of the glost loading department?
A. Yes, for about ten feet, I guess.
Q. That was a wider aisle?
A. Yes.
Q. How wide do you say that was?
A. That must have been about ten feet.
Q. That was about ten feet wide. And how far would you walk along that aisle?
A. Oh, it is according to where I was working. If I was working on the mangle, I would just walk 10, 15 feet, and if I was working on cups, we would just go down through the trucks and walk over to where I was working.
Q. How far to the cups?
A. About 100 feet, I imagine.
Q. After you got down to the end of that aisle, you would ordinarily have to make another turn to get back to your place in the dipping room, would you not, Mr. Anderson?
A. Well, yes, there would be another turn.
Q. There would be another turn?
A. Yes, just over to the left.
Q. Were you walking in between machinery?
A. No.

Q. Just walked right down the aisle.

A. Yes.

Q. Well, did you have a number of work places in the dipping department? How was it set up, was it a line or a number of workers spread through a certain working area, or what?

A. Yes, there were workers worked on different machines, you might as well call it, then on other days I worked in a different department dipping.

Q. It might be that when you got right to your dipping department then you would have to pick your way through the spaces between the different machines until you got to the particular machine you were working on?

A. You could work right over to them.

Q. Between the other machines; in other words, not all the machines were right on the aisle, is that right?

A. What do you mean, the machines?

Q. You spoke of there being work places in the dipping room, as I understood you, which you said could be called "machines"?

A. Oh, hell, we work all over the dipping room, sometimes we work on tubs out in the middle of the floor.

Q. If you are working on a tub out in the middle of the floor, that would mean that there would be other men in the dipping department, who would be more or less on all sides of you, is that correct?

A. No, it would mean there would be a big empty space around you.

Q. What would be beyond the empty space?

A. Probably girls brushing, chipping ware.

Q. Is that also in the dipping department?

A. Yes; well, it is the dipping department, they call it the brushing department.

Q. After you got to the end of the aisle, you would walk by these girls who were doing the brushing work, until you got over to the particular place where you were going to work that morning, is that right?

A. No, you didn't necessarily have to do that; the

brushing girls were working on the left-hand side of the department mostly.

Q. I think it would be clearer on the record if you would call that north or south?

A. Well, it would be the south.

Q. On the south side?

A. Then on the north side, you say then, is where the mangles were and the cup machines.

Q. What was in between there?

A. Well, there was aisles.

Q. You say on the north side there were mangles, is that right?

A. Yes.

Q. And on the south side the girls in the brushing department.

A. Yes.

Q. Well, in between the mangles and the girls in the brushing department, were there other machines or other operations carried on? * * *

A. No.

Q. (By Mr. Cooper): I don't want to mislead you, Mr. Anderson. You mean that the only thing that there was in the dipping department was the mangles and the girls doing the brushing work?

A. That is up until about, I couldn't say how long ago, a couple of years ago, I guess, they got their spray machines in.

Q. Where were the spray machines, were they in between the mangles and the girls doing the brushing?

A. Well, the first one was over there on the south side of the dipping house, that is where the first one was put up, and they put a second one up on the south side of the dipping house that is where the girls were brushing, and then later on they put one on the—let's see, where did they put the next one—I don't know; you have got it there (indicating map); could you tell me where the next one was put in—anyhow, it didn't interfere with our going in to work.

Q. About how much space did the department take up in the plant; was it a space as large as this room?

A. I imagine it is about—it is kind of L-shaped. Take on the east end it is about 120 feet wide, then it goes down, runs west, I guess, east and west, it goes down about 100 feet, about the same width, and then it goes out L-shaped towards the—oh, I don't know the directions, south, oh, about, maybe sixty feet—no, it wouldn't be that much, about twenty feet, then over, there is another wall here, about fifty feet; I can draw a picture of it, I can't explain it.

Q. It was a fairly large area?

A. Yes.

Q. And when you got to the dipping department, you would walk over to the particular part of it where your operations were going to be carried on that day, is that right?

A. Yes, where I was supposed to work that day.

Q. Going back to this particular day that I refer to, Mr. Anderson, let me ask you, it might make the record a little clearer, can you say whether or not the numeral 27 stamped on the time clock card at the extreme left-hand side indicates that that was the 27th day of March, 1941?

A. Yes, I believe it was—it was April, wasn't it, ending April—no, it would be March 27th, that is right.

* * *

Q. (By Mr. Cooper): Do you remember on that particular day whether you drove down or rode down with one of the other workers, Mr. Anderson?

A. Yes, I couldn't say.

Q. You don't remember what time you arrived at the front gate that morning?

A. No.

Q. I presume you don't even remember what time you punched the time clock except as it is indicated on this card, is that right?

A. That is right.

Q. Was there a line of workers at that south time clock that particular morning?

A. I couldn't say.

Q. You don't know whether there was or not?

A. No.

Q. What time did the dipping department go to work that morning?

A. I couldn't say unless I looked at it. And, I couldn't tell what time they went to work by looking at the time card.

Q. Was there a number of departments that started work at seven o'clock.

A. I don't know of any that started at seven.

Q. Do you know what the usual starting time was, as you claim it, for morning shifts?

A: Oh, there were different times. If we had plenty of ware we would probably go in at—he would tell us to come in at fourteen to, and if we didn't have a lot of ware, if we were short of ware for the glost belt, he would tell us to come in at 6:31.

Q. As you stated, the card this morning indicates you punched in at 6:49 on March 27. What time would you say from that your department started that morning?

A. I imagine we started at 6:46.

Q. Do you know what time the glost belt department started that morning?

A. No, I don't.

Q. By the way, do the people working in the glost belt department use the same time clock?

A. Yes.

Q. Do you know what time the decorating department started that morning?

A. No, I don't.

Q. Did the people in the decorating department use that same time clock?

A. Yes, they did.

Q. Were there other departments, as a matter of fact, that used that same time clock?

A. No. I don't know. I believe, oh, the maintenance, I think they used it.

Q. As a matter of fact, weren't there about six hundred employees who used the time clock at that time?

A. They might have but they didn't all punch in at once. They were different.

Q. And, you don't know what departments may have started at particular times that morning?

A. No, I didn't.

Q. You don't remember whether there was a line-up that morning or not in front of the time clock?

A. No, I don't.

Q. You were working in the shipping department that particular day, March 27th?

A. Yes.

Q. Do you remember what your operation was that particular day?

A. No, I don't know whether I was working on cups or flat ware, or colored ware, or what. I don't know.

Q. As a matter of fact, there was usually a line-up waiting to punch the time clock, was there not; a line-up at the time clock?

A. At different times, yes, there was.

Q. There were very likely a number of workers punching the time clock at just about the time you punched it that morning, and then walking over to their various departments, were there not?

A. I imagine there was.

Q. And a good many of them followed this same path that you described that you followed to get over to the dipping department.

A. No. The decorators went right straight through.

Q. Oh, the decorators did start work at the same time, then?

A. I don't know what time they started work. I just know which way they went to work.

Q. Do you remember whether, when you walked down this aisle you described, you were by yourself or were there other workers walking there, too?

A. I don't remember what happened when I punched that clock that morning, whether I was around or riding a bicycle or what.

Q. You think you may have been riding a bicycle?

A. I may have been.

Q. In the plant. You some times would, after you punched the time clock, get on a bicycle and ride over to the department on the bicycle?

A. No.

Q. You always walk from the time clock over to the dipping department?

A. Yes.

Q. And other employees after they punched the same time clock would be walking over to their own departments, would they not?

A. Yes, sir.

Q. As a matter of fact, there was a regular procession of workers from that time clock going over to their respective departments, were there not?

A. There was at different times, yes.

Q. And they just walked along and you walked along with the line, is that right?

A. Just what do you mean by that?

Q. After you punched the time clock did you aim to outstrip all the others, or would you just walk along with the other workers as you walked over to the dipping department?

A. We walked along, but we didn't saunter along. You had to get in there. I imagine I probably had to run in there that morning.

Q. Did you say "Good morning," or pass the time of day with anybody else?

A. No.

Q. As you walked in?

A. No.

Q. You don't mean to say, Mr. Anderson, that after punching the time clock, you never spoke to the other workers as you walked along in this procession?

A. No, you didn't have time to stop and discuss the time of day or anything. If you said anything you would say "Hi" like that, and keep right on going.

Q. You want me to understand that you didn't have time as you walked along—you say you might be walking

two abreast through this aisle, is that right?

A. Yes.

Q. Wouldn't you have time to talk to the fellow alongside of you.

A. Oh, yes, you would to him.

Q. Suppose you saw somebody a little ways behind you that you wanted to talk to do you mean to say you couldn't ask them a question, if you wanted to?

A. No, you didn't dare to stop or anything like that?

Q. Your claim, then, is that you walked right over to the department?

A. Yes.

Q. As a matter of fact, you don't remember, do you, whether you talked to anybody that morning between the time you punched the time clock and the time you got to the department, do you?

A. No, I imagine I had to hurry right up and get in there.

Q. You imagine that?

A. Yes.

Q. Is there a wash room between the time clock you punched, and your department?

A. No.

Q. You are sure about that? I don't want to mislead you.

A. There is one on the other side.

Q. Do you remember whether you stopped in that washroom that morning?

A. No.

Q. You don't remember?

A. No, I never stopped that morning.

Q. You never did?

A. No, sir.

Q. Do you wear overalls or an apron?

A. I used to wear an apron, rubber apron.

Q. When did you put that on?

A. In the morning.

Q. Would you ever turn on any lights after you got to the dipping department?

A. Oh, sometimes.

Q. Sometimes open windows?

A. Yes.

The Master: In connection with this apron, when did you put it on, after you punched the time clock, or before.

A. Yes, after I punched the time clock. When I got to work, yes.

Q. (By Mr. Cooper): Did you change your shoes, too, Mr. Anderson?

A. No, sir.

Q. Did you wear any finger cots or other protective devices on your fingers?

A. Well, when my fingers got sore, I used to put a finger cot on.

Q. When did you put that on?

A. Oh, after a couple hours.

Q. You never put them on before you started working?

A. No—oh, I wouldn't say I didn't, no. I probably did put one on before I started.

Q. As a matter of fact, you very frequently did, did you not?

A. No. We got orders one time not to wear finger cots. We couldn't feel the hard and soft pieces of ware. That was Mr. Doll's orders. That was what Ted Roth told us.

Q. Can you fix the time and place of that?

A. Oh, that was about three years ago.

Q. But after that you continued to put on finger cots?

A. We put them on, yes. When our fingers got bleeding, we would have to.

Q. As a matter of fact, you put on a finger cot to make sure your fingers wouldn't get sore, did you not?

A. No, we didn't.

Q. But if it did get sore, you would put on a finger cot?

A. Sure.

Q. Did you ever smear vaseline on your arms?

A. No, never used it.

Q. By the way, do you use a pail of water sometimes in connection with your dipping operations?

A. Yes, use quite a bit of water.

Q. Would you get your own pail filled with water, or did somebody else do it for you?

A. We would use the water we took off the top of the glaze in the morning, getting it ready.

Q. After you got over to the departmet, you spent some time getting the glaze ready?

A. Yes.

Q. You might take a pail of water off the top of the glaze?

A. Sometimes three or four pails.

Q. Did you ever walk over to the faucet to get this pail of water.

A. No, we never had to.

Q. Some of the other employees did, did they not?

A. Some of the girls, yes.

Q. But you never did?

A. I wouldn't say I never did, no. In fact, I went over during the day and got water.

Q. As a matter of fact, in the morning, there was often a group of people standing around the faucet getting their pails of water, was there not?

A. Yes, that is right.

Q. Isn't it true that if there would be a group waiting to get their pails of water, people waiting to get their water would pass the time of day and say "Hello" to each other?

A. They might. I don't know what they said.

Q. That would take a little time, too, wouldn't it?

A. It might.

Q. Going back to this particular morning, how long did it take you after you punched the time clock, to walk over to the dipping department, if you can remember?

A. Oh, I imagine it wouldn't take a minute.

Q. You think you could walk through these aisleways that you described, and through the doors and over the bridge, in less than a minute?

A. Yes.

Q. You don't mean to say you did it in less than a minute every day do you?

A. About a minute.

Q. How long would it take you to put on your apron and finger cots on this particular day?

A. Well, my apron, it had a snap on it. All I would do is just stick my arms in it and snap it in the back and it was on.

The Master: Where did you get your apron from?

A. I bought it uptown.

The Master: I mean, when you went in the dipping department, where was your apron?

A. Oh, it was hanging on the post where I worked.

Q. (By Mr. Cooper): As a matter of fact, you can't remember exactly how long it took you on this particular morning, can you, Mr. Anderson? You don't know exactly what time you first started dipping ware into glaze that morning, do you?

A. What morning?

Q. March 27th.

A. No, I couldn't swear to it.

Q. Anything that you would try to tell me in fixing the time would just represent your best guess, would it not.

A. Yes.

Q. Now, as a matter of fact, the dipping department didn't really get functioning until your group was all there, ready to go, did it?

A. Well, I don't know whether I worked with the group. I might have just worked with one girl.

Q. Suppose the girl wasn't there, you wouldn't really get going until she was there, would you?

A. Oh, no, I have to get my glaze ready. That takes as high as a half hour.

Q. You wanted to get there in time to have the glaze stirred up so that you could start production as early as possible, I presume?

A. I presume so, yes.

Q. Because the more pieces you got dipped, the greater your earnings were, isn't that right?

Mr. Lamb: Objection. I think it is argumentative.

Mr. Cooper: I think it is proper cross examination.

The Master: I think it is all right on cross examination.

A. Well, that is one thing I never could find out. I put out as high as 2,000 dozen cups a day, and we were supposed to get paid, I think a dollar a hundred dozen, and the best I ever drawed was $10 a day. * * *

Q. (By Mr. Cooper) Do you mean to say, Mr. Anderson—strike that, please. Suppose you were dipping cups, how many cups were you supposed to dip in a morning?

A. Well, to time myself, I dipped a thousand dozen.

Q. A thousand dozen?

A. Yes.

Q. Well, suppose that on a particular morning you only dipped a hundred dozen, you wouldn't earn as much for dipping a hundred dozen as for dipping a thousand dozen, would you?

A. No, I don't believe it, no. * * *

The Master: Didn't anybody ever tell you when you were there what your rate of pay was based on?

A. I heard it was a gang rate. How they figured it I couldn't tell you.

The Master: Did you ever ask the foreman what the basis of your pay was?

A. Yes, but he didn't know. * * *

The Master: You worked there ten years without knowing what your rate of pay was?

A. I couldn't tell within $10 what I was going to draw on pay day.

The Master: Not what you were going to draw, but they didn't tell you how much you were going to get for a cup turned out, or some other basis of pay that you were supposed to be getting?

A. No. I have heard a dozen different rumors. I heard

they used to get $1, and then $1.35, and then I heard we got 98 cents. I never knew.

The Master: 98 cents, and $1, and $1.35 for what?

A. For the same ware. Three different versions. • • •

Q. (By Mr. Cooper, continuing) You say, Mr. Anderson, when you first started to work there was a certain deduction from the regular base rate?

A. Yes.

Q. That was when you were learning the trade, was it not?

A. Yes.

Q. And there were meetings held from time to time of employees of the company, were there not?

A. Yes.

Q. Mr. Doll, Senior, would frequently be at the meetings?

A. Once in a while he would be there.

Q. He would quite frequently walk out through the plant, would he not?

A. Yes.

Q. Almost every day or so, would he not?

A. Yes, sir, I would see him around there pretty near every day.

Q. And he would talk to the employees?

A. He never talked to me.

Q. Did you see him talking to any of the others?

A. He would say hello to me, yes.

Q. He would say "Hello" to you. Now, at these meetings there was discussion about conditions in the shop, was there not?

A. Yes.

Q. Isn't it a fact you were told if you had any questions or complaints, to come right into the superintendent and make them?

A. Yes, we were told that.

Q. As a matter of fact, you never asked any question as to the rate at which you were being paid, of the superintendent?

A. No. • • •

Q. (By Mr. Cooper) You never asked Mr. Doll what your rate was, either?

A. No.

Q. As a matter of fact, when you were doing certain jobs you were paid at a gang rate and on other jobs you were paid according to what you yourself had done, isn't that right?

A. I don't know.

Q. How did the company determine how many pieces you made in figuring out how much your earnings would be?

Mr. Lamb: Objection.

A. That is something I never could find out.

Q. (By Mr. Cooper) Isn't it true, as a matter of fact, that they took your count as to how many pieces you had made?

A. They obviously did.

The Master: They took your own count?

A. Yes.

Q. (By Mr. Cooper) And you were paid on the basis of your own count as to how much work you had done, isn't that right?

A. I don't know how they did, how they paid us.

The Master: Did you submit an account every week to the company of the amount of pieces you turned out?

A. No, every day the girls would turn it in. That is on cups. Then on flat work I used to keep track myself of how many dozens I dipped.

The Master: And the company took your word on that?

A. Yes. • • •

Q. (By Mr. Cooper) And in the case of cups, the company took the girls' count?

A. Yes.

Q. I mean that in certain types of dipping operations, you were paid on the basis of a so-called gang rate, and on other dipping operations you were paid on the basis of your own individual production, were you not?

A. I don't know whether I was or not.

Q. And you want the Court to believe that you worked for The Mt. Clemens Pottery Company for ten years and did not at any time know the rate at which you were being paid?

A. That is right.

Q. And you never asked either the superintendent or Mr. Doll as to what that rate was?

A. No.

Q. And it was always just a surprise to you when you got your pay check, to see what it might be?

A. Yes, it was. In fact, it was a surprise to all of us.

Q. You didn't know whether you were being paid on an hourly rate or on a piece rate?

A. We had no way of telling.

Q. And you didn't know how many hours you had worked?

A. That is right.

Q. And you just took whatever was given to you?

A. We had to take whatever was given to us.

Q. Do you smoke, Mr. Anderson?

A. Yes.

Q. As a matter of fact, you were free to leave your work place during the morning any time you wanted to, were you not?

A. What do you mean, smoke? We were free to go to the toilet; yes.

Q. (By Mr. Cooper) In any event, if you did leave your work place for a few minutes during the morning, you wouldn't punch out, would you?

A. No, sir, that is when we went to the toilet.

Q. What time did you quit work at noon?

A. Oh, different times, sometimes we would quit at five minutes to 12, we would run along like that for a while, and then other times we would work until after 12.

Q. And when you stopped work, you would then take off your aprons, I presume?

A. Yes.

Q. Take off your finger cots?

A. Yes, take off the cots and run for the clock.

Q. Would you wash up right there?

A. Stick your hands in the water.

Q. Would the whole dipping department quit work at the same time?

A. Well, lots of times they would send the brushing girls out ahead of us; I don't say all the time.

Q. Sometimes the whole department stopped at once?

A. Yes.

Q. And you would all walk over toward the time clock?

A. We used to run; we pretty near knocked Mr. Doll down one day.

Q. You were in a hurry to get out. Some days other departments would be stopping the same time at the noon recess, would they not?

A. No, as a rule, we got through say before 12 the belt would work after 12, that would be so there wouldn't be a congestion at the clock.

Q. As a matter of fact, isn't it true when the whistle blew everybody would start right off for the clock and there would be a line-up at the clock again?

A. No, our foreman even put a bell up in our department so we wouldn't quit until he rang the bell; when he rang the bell we would go.

Q. There would be a line-up at the clock as you were going out?

A. No, he would ring the bell so there wouldn't be a line-up, he would stand there with his watch.

Q. You mean there was never a line-up?

A. I wouldn't say "never."

Q. Sometimes there was?

A. Oh, yes.

Q. Going back to March 27, you wouldn't remember whether there was on that day or not?

A. I think on March 27, if you look at it close, I punched out at 11 something.

The Master: Would you remember whether there was a line-up, was the question.

A. No, I couldn't say.

Q. (By Mr. Cooper) After you ate lunch you would come back to the dipping department again for the afternoon's work, is that right?

A. No, we would get our lunch and then smoke a cigaret in the dressing-room there, and whatever time the foreman told us to go in we would go to the clock and punch in.

Q. You weren't in any particular hurry, you had time to eat your lunch and have a smoke and talk a while?

A. Oh, yes.

Q. And then you would ring in and follow the same path back to the dipping department that you had followed in the morning?

A. Yes.

Q. And again you wouldn't know exactly how long that might take you?

A. No, I wouldn't.

Q. And there would be—

A. (Interposing). What do you mean, how long it would take me to what, get in?

Q. You don't know exactly how long it would be from the time you punched the time clock on March 27 after lunch until the time you were dipping cups again?

A. Well, right offhand I couldn't say without looking at the card, I don't believe I worked in the afternoon, did I?

The Master: Exhibit "LL," I believe.

Mr. Cooper: I had it.

Q. (By Mr. Cooper) The time clock card indicates you punched in at 12:34 that afternoon, does it not?

A. Yes. • • •

Q. (By Mr. Cooper) Showing you again, Mr. Anderson, Exhibit 1-LL, and directing your attention to the figures appearing in the column on the extreme right-hand site, you have seen those figures before, have you not?

A. Yes.

Q. As a matter of fact, every day when you punched the time clock the figure for the preceding day would be written in there, would it not?

A. Yes.

Q. You know what that represented, do you not?

A. Well, it represents the hours the company claims I worked, but not the hours shown on the time clock.

Q. In other words, it doesn't represent the elapsed time between the time you punched in in the morning and punched out after work, but it indicates the hours worked?

Mr. Lamb: Just a second. I believe—

The Master: He is asking the witness a question.

Mr. Cooper: Just another attempt at telling the witness what his answer should be.

Mr. Lamb: What are you trying to tell the witness in the question. He says "in other words it indicates the time you worked."

The Master: That is a question the witness can answer any way he sees fit. Read the question.

(Question read by the reporter.)

Mr. Lamb: It is the company's computation.

The Master: That is a proper question and the witness can answer it.

Mr. Lamb: All right, there is an objection to it.

The Master: I will overrule the objection. Will you answer the question? Do you want it read again?

A. Yes.

(The question was repeated by the reporter.)

A. No, it doesn't indicate the hours worked.

Mr. Nunneley: Mr. Lamb has testified.

The Master: I frankly think that objection was in the nature of testimony. • • •

Q. (By Mr. Cooper, continuing): You state, then, Mr. Anderson, that this figure over here was only the company's computation as to the number of hours you worked?

A. Yes.

Q. How many hours do you claim you actually worked on March 27?

A. May I have a pencil?

The Master: What did you say?

A. May I have a pencil?

The Master: Yes. (Handing pencil to the witness.)

A. (Figuring on paper): About 8¾ hours. Maybe I made a mistake; I don't know. Just a minute, here—yes, that is right.

Q. (By Mr. Cooper): Is it your claim, in other words, Mr. Anderson, that you start to work the minute you punch the time clock?

A. Yes, that is what I think.

Q. You claim you were working, in other words, when you were walking along the aisles between the time clock and the dipping department?

A. Yes.

Q. And that if you stopped to say hello to somebody as you were walking over there, you were working then?

A. I don't think I stopped to say hello to anybody.

Q. You don't remember whether you did that day or not?

A. No, I don't think I did.

Q. You don't remember whether you did that day or not? • • •

A. I never made it a practice of talking to anybody when I went to work.

Q. But, on that day you are just guessing, aren't you, whether you did or whether you didn't?

A. No. I am pretty sure I didn't.

Q. How can you remember that particular day?

A. Well, I can remember as a rule.

Q. Do you remember what the weather was like that day?

A. No.

Q. Remember what you were dipping that morning, whether it was cups or flat ware?

A. No.

Q. But, you remember you didn't stop to say hello to anybody as you were walking over there?

A. I can't remember that I didn't. I just say as a rule

I did not. We just went about our business going to work.

Q. You can't remember that you didn't that particular morning?

A. Well, I am pretty sure I didn't.

Q. You figure that you were working if you spent a little time opening windows, or turning on lights?

A. Yes, I did.

Q. Putting on your apron?

A. Yes.

Q. Mixing up your glost?

A. Yes.

Q. Taking water off it?

A. Yes.

Q. If you went over to get a pail of water and waited at the faucet, you figured you were working?

A. That was my work. If the company did not have a big enough faucet for the people to get at, and get back, that was their hard luck.

Q. And you figured you were working if you stopped dipping and took off your apron and washed your hands in the department there?

A. I never washed my hands, just gave them a rinse.

Q. You figured you were working when you were rinsing off your hands?

A. In fact, I rinse off my hands quite a few times during the day, and my face.

Q. Well, you figure you were working when you rinsed your hands there?

A. Yes.

Q. And when you were walking back out to the time clock?

A. Yes.

Q. As a matter of fact, you don't know just how long any of those operations took, do you?

A. Just what do you mean? Wash my hands and face?

Q. Walking over.

A. I washed my face probably every 15 minutes.

Q. I say, you don't know just how much time you spent that day walking over from the time clock to your department over the route you described, and putting on

your finger cots, putting on your work apron, turning on lights if you turned them on, speaking to other workers if you spoke to them.

A. No, I haven't figured it out. * * *

Q. (By Mr. Cooper): Now, Mr. Anderson, when you were engaged in dipping cups, you worked in teams consisting of a man and three girls helping him, did you not?

A. Yes.

Q. And suppose that you stopped to wash your face or left your place of operations during the morning, that would slow up the work of the girls somewhat, would it not?

A. Well, the girls most generally went with us. Well, they didn't go with us, but they went at the same time.

Q. And if they came back a little later, operations would be pretty slow until the whole gang was back ready to start, isn't that right?

A. Yes.

Q. The same thing would be true in the morning, would it not, that you couldn't get going good until your group was there?

A. Well, our group was always there by the time we got ready to go.

Q. You wouldn't be ready to start operations until your group was there, is that right?

A. What do you mean, until the girls were all there, you mean dip?

Q. Going back, I think I asked you whether it was not a fact that if, say, two of the girls didn't show up some morning, production in your particular group would be very slow until those two girls either arrived or were replaced with somebody else, isn't that true?

A. Well, they would send two girls over right away if they didn't show up.

Q. If they could find them, they would send two girls to replace the two that didn't show up?

A. They always had girls to spare. And if we were short, we washed ware.

Q. If one of the girls that morning did not punch in until 6:59, probably operations would be held up a little bit until she was there?

A. Most likely I would be washing wear until they got in.

Q. You might be washing wear?

A. Yes.

Q. But so far as dipping goes, you probably really wouldn't get started dipping until that girl got over there, would you?

A. No, but I would be working just the same.

Q. Now, I have asked you a number of questions relating to just what you did on March 27, 1941. Wouldn't it be true that if I took, say, the next day, and asked you those same questions about just what you did after you punched the time clock, your answers would be the same for the next day as for that particular day?

A. Yes, I imagine it would be.

Q. In other words, you can't distinguish between days, but you are just averaging things up and giving us your best guess?

A. Yes.

Q. Do you remember how much money you made during the year 1938, Mr. Anderson?

A. No.

Q. Showing you Exhibit 2, pointing out to you a figure written in pencil, at the bottom of this column headed "Social Security Deductions," the figure being $2,282.23, does that refresh your recollection as to what your annual earnings were.

A. I imagine I made about that much. • • •

Q. (By Mr. Cooper): And would you say, Mr. Anderson, that in the year 1939 your annual earnings were approximately $2,400?

A. Yes, I imagine so.

Q. Would you say for the year 1940 your actual earnings were approximately two thousand three hundred and some-odd dollars?

A. This is it here (indicating)? Yes.

Q. You think that is about what you earned during the year?

A. That must be it because it is on there. I wouldn't say it wasn't. I wouldn't swear it was.

Q. As a matter of fact, your average rate of earnings were a dollar an hour or better during all that time, weren't they?

A. Yes, I imagine so. It went as high as $1.40, I believe . . .

Q. (By Mr. Cooper): How frequent were your paydays, Mr. Anderson?

A. Every other Friday.

Q. Each pay would cover a two-week period, is that right?

A. Yes.

Q. Does Exhibit 2-A refresh your recollection on the question as to whether or not in the year 1939 you had a pay ending August 8?

A. I couldn't say for sure; I imagine I did.

Q. And another pay ending two weeks later, on August 22?

A. Yes, I imagine so.

Q. And apparently on that pay you received $102.45?

A. Yes.

Q. And then again on September 5, 1939, you had another pay?

A. I guess so, yes.

Q. In between those two, and on August 25, 1939, you also received money aggregating $43.89, did you not?

A. Yes, I guess so.

Q. Now, that didn't represent payment for work performed between August 22 and August 25, did it? . . .

A. Three days—I don't know; say, maybe that was our share in the earnings they told us so much about.

Q. Yes, as a matter of fact you got that as extra compensation, didn't you?

Mr. Lamb: Just a second, an objection.

A. I wouldn't know.

The Master: You are speaking "you got a share in the

earnings as extra compensation," or that particular amount, compensation?

A. Was that when I was on my vacation?

The Master: Did you get a share in the earnings from time to time?

A. That is what Mr. Doll said it was; he didn't want to call it "bonus."

The Master: It was a check that was in addition to your regular pay checks?

A. Yes.

The Master: Christmas time?

A. Yes.

The Master: Did you get one in August? This is in August.

A. It might have been when I had my vacation. I don't know.

Q. (By Mr. Cooper): As a matter of fact, you received payments approximating two weeks' wages or better, in addition to your regular earnings, did you not?

* * *

The Master: I will make this ruling on the record. This is a matter that is in issue, and the question is as to whether the evidence should be taken, and that depends, of course, partly upon whether the law is that the company can set off vacation payments and bonus payments, or payments of that character against overtime work, if it is found by the court that overtime was worked, which was not compensated for at the rate prescribed.

Mr. Lamb has cited Administrator's Rulings which seem definitely to state that such set-off is not permissible. Mr. Cooper has cited one Wisconsin case which I have not read and has said he has other citations on the subject and also argument to make upon it.

Under the Federal rule which I just quoted, the evidence is to be taken unless it clearly appears that it is not admissible. This does not seem to be evidence of a character that will take a great deal of time to take it, and therefore I will rule that the evidence shall be taken subject to the objection, and after the case is submitted, counsel can submit briefs and arguments upon the question of whether or not such set-off is permissible. * * *

February 19, 1942

STEVE ANDERSON, thereupon resumed the stand as a witness herein, and having been previously duly sworn, testified further as follows:

The Master: All right, go ahead, Mr. Cooper.

Before we proceed I would like to ask two or three questions here to get this testimony straight.

Did I understand you to say when you came in the morning to the plant there was usually a line-up in front of the time clock?

The Witness: Oh, I never noticed when I came to the plant. You see, the time clocks are down from the dressing room.

The Master: Well, when you got before the time clock in the morning to check in, was there usually a line-up?

The Witness: No. There were probably three or four waiting. Of course, if I came in what they call late, there would be a line-up.

The Master: I beg your pardon?

The Witness: Sometimes when I would be late there would be another shift.

The Master: How was that worked? What time was the time clock open if the shift started according to the company at 7 o'clock?

The Witness: The time clock was never locked or anything; it was always open.

The Master: Was there a foreman standing there in front of it, or some watchman?

The Witness: There used to be a watchman over there, but he was never there at any specified time.

The Master: Could you go through at any time you came?

The Witness: Oh, you didn't want to get caught going through at any time you came.

The Master: If the company said that the shift is to begin at 7 on a particular morning, could you get there at 6:30 and punch the time clock at that time?

The Witness: No.

The Master: When could you first punch it?

The Witness: If they said to be there at 7—they never told us—

The Master (Interposing): If the shift, according to the company's idea of what a shift is, started at 7, what time could you be there? What time could you punch the time clock then?

The Witness: You couldn't punch it until they told you to.

The Master: Well, what time did shifts normally start there in the morning?

The Witness: They started from about 6:31 on. If they told you to punch in at 6:31 and you punched in at 6:30, the foreman would be right over there to raise the devil.

The Master: Did the foreman tell you from day to day when to punch in the next day?

The Witness: As a rule, yes. He would come along and sometimes we would run probably a week or so—he would say punch in at 14 to until I give you further notice.

The Master: Well, then, suppose he said to punch in at 14 to. Suppose you came at 15 to; what would happen?

The Witness: What do you mean, 15 to? They would raise the very devil. They would likely give you the week off.

The Master: Would you be able to punch the clock at that time, 15 minutes to the hour, if you were to come at 14 to?

The Witness: No.

The Master: Was there somebody there to prevent you from doing it?

The Witness: No, there was nobody there.

The Master: It was just you knew you weren't supposed to do it, and didn't?

The Witness: Yes.

The Master: Did your whole department punch the time clock as a unit at one time?

The Witness: No. Sometimes we did and then most generally the brushing department would be behind on wear so they would go in ahead of us. They would go in probably 15 minutes before we did.

The Master: When your department would go in, did you all go in together? Was that the custom?

The Witness: Yes.

The Master: And separately from the other departments?

The Witness: Yes.

The Master: Well, how many were there in your department altogether?

The Witness: Oh, I should judge about 75, I imagine.

The Master: Now, when 75 men got there, men and women got there at 14 minutes to 7:00, how long would it take you to get through the time clock and all of you get punched in?

The Witness: Oh, I imagine it wouldn't take over at the most a couple of minutes.

The Master: Do you know, after your department went in, as to whether there was another department waiting there to go in?

The Witness: Oh, yes.

The Master: Immediately after you got through?

The Witness: The packing shed used to go in after we did. What time they punched in, I don't know.

The Master: It took you about two minutes to punch in, and then you stated the other day as to how long it took you from the time—that is, I should say it would take 2 minutes for the whole department, you estimate, to punch in, and how long did you say you thought it would take to walk from the clock after you had punched in to your particular department?

The Witness: It would be less than a minute, I imagine.

The Master: What was this department that punched in after you did?

The Witness: The packing shed.

The Master: The packing shed?

The Witness: Yes.

The Master: Do you know if any other departments punched in after they did?

The Witness: I couldn't tell you.

The Master: Go ahead, Mr. Cooper.

Cross Examination (Continued)

By Mr. Cooper:

Q. I presume you knew most of the people who worked in the Shipping department?

A. *Well, yes, I knew quite a* few of them.

Q. You were good friends with a lot of them, weren't you?

A. Yes.

Q. And as you told me the other day, you would frequently get down to the plant before quarter to seven in the morning?

A. Yes.

Q. And you would sit around and spend the time of day talking?

A. Yes.

Q. I suppose you would frequently sit around with people you knew in the Dipping department, and spend the time of day talking?

A. I would sit around with a few of them, yes.

Q. And after the time clocks were opened, you would go through and punch the time clock?

A. What do you mean, after they were opened?

Q. Well, suppose that you got there at 20 minutes to 7:00, could you have gone through the time clock at that time?

A. No, we couldn't.

Q. No.

A. Not unless we were told to.

Q. It wasn't until the watchman opened the clocks, so to speak, that you could go through, was it?

A. I don't know what you mean by that, opening the clocks.

Q. Where would the watchman stand up until 14 minutes to 7:00?

A. Oh, he might be down by the clocks and he might be some place else.

Q. As a matter of fact, he was posted there mostly to keep order, was he not?

A. Yes, I guess he was.

Q. It wasn't the foreman of your department, was it?

A. Well, the foreman of our department, he was standing around there quite a bit. Quite a few of the other foremen were standing around there sometimes.

Q. Sometimes they would be in their departments, too?

A. Yes.

Q. He was ordinarily, was he not, a sort of a watchman who would be standing near the time clock?

A. Yes, I guess there was.

Q. You knew you couldn't ring in at the time clock any earlier than 14 minutes to 7:00?

A. That is right.

Q. When it came time to ring in at the time clock, you would go and pick your time clock card out of the rack, would you not?

A. Yes.

Q. It would be in a numbered slot, would it?

A. Yes.

Q. You would find it that way?

A. Yes.

Q. And there would be, I suppose, about 25 people getting out their clock cards at about the same time, would there not?

A. There might be, yes.

Q. If your claim is that all your department went in at once?

A. If they all went in at once, yes.

Q. Or didn't they necessarily all go in at once?

A. No, they didn't.

Q. They would be more or less strung out over a period of minutes?

A. I guess so, yes.

Q. As a matter of fact, sometimes people working in the glost belt department would be punching in at that same time clock, just about the same time the boys in your department were going in, would they?

A. Sometimes they would, yes.

Q. In other words, sometimes they could punch in at 14 minutes to 7:00 as well as your department could?

A. Sometimes, as a rule, yes. They would let the men punch in and make us punch in according to where our ware was.

Q. And sometimes the glost warehouse would be permitted to punch in at that 14 minutes to 7:00, too, would they not?

A. The glost warehouse?

Q. Yes, don't you have a department there by that name?

A. No, I don't know of a glost warehouse.

Q. Maybe I can get a better name for it. Would the term "glost ware room" straighten it out; do you know what the glost ware room was?

A. I don't remember a name like that.

Q. Do you know of the chippers?

A. Yes.

Q. The chippers sometimes would start going in at 14 minutes to 7:00, would they not?

A. I wouldn't say they did; I imagine they did sometimes.

Q. Do you have any idea how many employees there were working along this glost belt?

A. No.

Q. Don't know whether there were 50 or 100?

A. No, I don't.

Q. Have no idea at all?

A. No.

Q. Do you have any idea how many chippers there were?

A. No, I don't have an idea of that, either.

Q. All you would know would be on these certain mornings there would be more persons than the persons in your dipping department taking out their time clock cards and ringing in?

A. I never noticed what was behind me, or anything like that.

Q. You never noticed what?

A. What was behind me.

Q. Well, did you notice who was ahead of you?

A. Yes.

Q. Would there be people working in these other departments just ahead of you at the time clock sometimes?

A. Yes, when I came in supposedly late I suppose there was.

Q. But you usually didn't come in later than 6:46, did you?

A. Sometimes I came in at 7:01.

Q. Sometimes you came in just at 7:00, didn't you?

A. Sometimes, yes; I wouldn't say just at 7:00.

Q. You wouldn't say you didn't?

A. No, I might have been late, or something like that.

Q. You don't really know then how many employees may have been punching in at this time clock between 14 minutes to 7:00 and 7:00 then?

A. No, the only thing I knew is I would say "what time did you punch in," and somebody would say "7:31," or "6:14," or something like that.

Q. As a matter of fact, there may have been as many as two or three hundred in the glost belt dipping department, the decorators, and the other departments, all going through that same time clock then beween 14 minutes to 7:00 and 7:00, wouldn't there.

A. I don't think so.

Q. Do you think that employees working along the glost belt department go in between 14 to 7:00 and 7:00?

A. I couldn't say.

Q. You just said a little while ago, if I understood you correctly, sometimes they did?

A. Which morning do you mean?

Q. I am not talking about any particular morning; were there some mornings when they did?

A. I don't just know what you mean by that; I imagine there were mornnigs when they came in at 14 to, yes.

Q. You imagine there were mornings when they came in at 14 to?

A. Yes.

Q. It might have been on the same mornings that you came in at 14 to, is that right?

A. Well, it might have been.

Q. Of course when you say "came in at 14 to," you don't mean that you rang the time clock at exactly 14 minutes to 7:00, do you?

A. No, you couldn't punch at exactly 14 to, no.

Q. You couldn't all punch at the same time?

A. No.

Q. As a matter of fact, if you had a group of employees picking out their time clock cards and then inserting them in the time clock, what would you do, pull a lever after you had your card in?

A. This watchman you are talking about is standing there pushing the lever; all we do is drop the card in and he would push a lever and say, "Come on, come on, come on;" I think if you look at some of those cards you will see my time clock card was 'way down before it was punched.

Q. And then you would pull the card out of the clock again?

A. Yes.

Q. And then would you put it back in the same rack?

A. No, keep right on going and the rack is on the other side of the clock.

Q. You would go over on the work side of the clock, so to speak, and would you just throw the card down or would there be a particular card slot?

A. No. Just a slot you put it in.

Q. And I suppose the greater number of employees who were coming in on any particular morning between

14 minutes to 7:00 and 7:00, the more time they would take before they could all get through the time clock there, isn't that right?

A. The company generally arranges so that they weren't there all at once.

Q. Well, you just said, as I understood it, you didn't know what time any of these other departments did come?

A. I know what time the glost belt used to come.

Q. You do know what time the glost belt used to come; what time did it come? * * *

A. Well, some mornings they would pass before we did, and other mornings they would pass after we did.

* * *

(There was an intermission taken while the Master and Counsel for the parties were conferring with Judge Picard.)

The Master: I think I had better state on the record what has transpired here. The parties can make any corrections they wish, objections, or any other statement they wish.

This case was referred to me by Judge Picard, and the question arose as to the method of my compensation. I work strictly on a fee basis and must pay office expenses and have something left over for myself in cases on an average in order to subsist. And, I took the question of fees up with the attorneys at the outset, with a view to getting in a practical arrangement, and if possible, getting compensated on account from time to time during the course of the trial.

It looked as though it might get into a very long trial, the way it was proceeding, if we proceeded in accordance with, at least, the way the defendant believes is the proper method of proceeding and I believe the trial would run into months.

The plaintiff has been able to put up an amount of money equal to, I understand, $300, to defray their 50 per cent of the compensation of the Master, each side paying 50 per cent in the first instance. I have stated to the parties that I think in a case of this type I ought

to get compensated at the rate of approximately $40 each full working day. A large part of that goes to office expenses, and I often do a great deal of work in a case that I do not directly charge for.

That is just by way of background to explain what has come up.

I have taken the matter up with Judge Picard as to the length of time the trial is likely to take, and whether any measure could be taken to short-cut it, and the parties have been participating in one or two conferences with Judge Picard on that question; one, in particular, which just ended.

Judge Picard believes that the trial can be very greatly shortened and has in fact stated that he doesn't see why it should take over a week to try the issues in this case.

* * *

The Master: Then we have those four issues. Are there any others? That is, the 56 minutes per day, or some such amount, extra time worked, as shown by the time clocks, which was not computed by the defendant in paying the men. Second, charity work. Third, the payment of the so-called invisible man. And, fourth, unauthorized deductions for equipment that the employee had to buy from the employer.

Mr. Lamb: That is right. * * *

Q. Steven, I show you Exhibit 1-J, for identification, the same appearing to be your time clock card for the pay ending October 29, 1940. Looking at that, can you state what time your department began to work that week (handing exhibit to witness)?

A. I started work at 6:51; 6:51.

Q. Can you answer the question, what time did your department start to work that week?

A. No, I couldn't.

Q. You don't know when your department started to work?

A. No.

Q. It certainly didn't start to work at 6:46, did it?

A. Well, I didn't.

Q. You didn't?

A. No, not if I punched in at 6:51, I didn't.

Q. You don't have any idea from that, whether your department was supposed to have started at 6:31 that morning or a quarter to 7 or 7:15, or when it was supposed to start?

A. I imagine it started at 6:46.

Q. You think your department started at 6:46 that week?

A. Yes.

Q. In other words, you could punch in as early as 6:46 in the morning?

A. Yes, sure.

Q. You know Rita Schulte?

A. No. I don't know her personally. I have seen her.

Q. Would you recognize her?

A. Yes. I would recognize her.

Q. What department does she work in?

A. You got me. I don't know.

Q. Does she work near Earl Trombley in the glost belt?

A. I don't know whether she does or not.

Q. Do you know Earl Trombley?

A. Yes, I know Earl.

Q. Do you know where he worked?

A. He worked on the glost belt.

Q. Did you hear him testify that Rita Schulte worked right close to him?

A. I heard him say she worked on the belt, but I don't know whether she does or not. I imagine she does.

Q. You imagine she does. She probably is in the glost belt department herself, then?

A. I imagine she is. If he said she is, she probably is.

Q. Showing you Exhibit 5-HH, what time would that indicate that the glost belt department started operating for the pay ending October 29, 1940 (handing exhibit to witness)?

A. Well, it indicates on the card 6:46.

Q. In other words, the same thing as the dipping department?

A. Yes.

Q. Do you know Earl Trombley?

A. Yes.

Q. What department did he work in?

A. In the glost.

Q. Showing you Exhibit 3-HH, to refresh your recollection, what time would you say the glost department started that morning, that week (handing exhibit to witness)?

A. Well, I don't know what time they started. He punched in at 7:12 and 6:46 and 6:31. I couldn't tell by that what time they started.

Q. He was working in the same department as Rita Schulte you said?

A. Yes.

Q. Well, if he was working in the same department and the department started at 6:46 for Rita Schulte, it probably started at 6:46 for Earl Trombley?

A. No, I don't think it is fair to mean that.

Q. In other words, the fact that the time clock was open at 6:46, didn't mean that everybody in the department would be getting in there?

A. No, it doesn't mean that.

Q. Do you know Mrs. Lillian Socia?

A. Yes.

Q. What department does she work in?

A. She works in the dipping house.

Q. Well, then, inasmuch as the dipping department started work at 6:46 the week ending October 29, 1940, according to your testimony, that was presumably the time she was supposed to be there that week?

A. I think I testified we didn't all go in at once; I think I testified the girls would come in sometimes fifteen minutes earlier than we did, and other times I would go into a different department, I wouldn't go into the dipping

house. They had tubs over in where the liner work was, the decorators work, and I would work over there on blue ware.

Q. As you testified—well, do you say now that you don't know from looking at your clock card and Lillian Socia's clock card what time the dipping department opened up that week?

A. I could guess at it, yes.

Q. But you wouldn't know?

A. No, I wouldn't know.

Q. What would your guess be?

A. What time the rest went in? I would say 6:46 on this card here (indicating).

Q. Well, what would you say in Exhibit 7?

A. Well, that is 6:32.

Mr. Lamb: Exhibit 7?

Mr. Cooper: Exhibit 7.

A. 6:33, 6:35, I would say they started here 6:31.

Q. (By Mr. Cooper) Do you mean that Lillian Socia came in at 6:31 that day?

A. No, you will have to ask her what time she came in; I don't know.

Q. You don't know what time you came in that day either, do you?

A. Well, I imagine I came in at the time the card says there, yes.

Q. And as far as you know the dipping department that week started, as you say, at 6:46?

A. Well, as far as I can get it from the card, yes.

Q. And the same thing was true that week of the glost belt department?

A. Which card is that? Let me see them again. No, this one probably came in at a different time, I don't know what time the belt came. He came in at different times after 7—6:31, 6:49, 6:31, I don't know what—

Q. You don't know what time he started?

A. No.

Q. From Rita Schulte's card, Exhibit 5-HH, showing punches in at 6:46 and 6:47 on various mornings, you would say that that week—would you say in that week the girls on the glost belt were coming in at the period between 6:46 and 7?

A. I wouldn't say the girls, I would say Lillian, she was; I don't know if the other girls were.

Q. You don't know whether the department had a regular opening time or not?

A. What do you mean?

Q. I say you don't know now whether there was a time when the people in the glost department were supposed to come in, or whether they weren't?

A. As I said before, they came in at different times.

Q. You mean anyone could come in any time any day, or was there a time when that department was supposed to start; that is what you said a while ago?

A. No, I don't think I said when they were supposed to start.

Q. Now you say they weren't supposed to start at any particular time, do you?

A. No, I don't say that.

Mr. Lamb: You are getting it all tangled up.

A. I said they came in at various times.

Q. (By Mr. Cooper) Various departments came in at various times?

A. Yes.

Q. And you said the week ending October 29, 1940, your dipping department started at 6:46?

A. Let me see the card again.

Q. (Handing card to the witness).

A. (After examining card.) I imagine it was supposed to, yes.

Q. And as far as you can tell from Exhibit 5-HH, Rita Schulte's card, the girls in the glost ware department could punch in that week at any time between 6:46 and 7, is that right?

A. All I know is what that card says; I don't know about the other girls.

Q. Can you answer the question? * * *

A. I guess they could, she did.

Q. (By Mr. Cooper) Do you know Leo Stafford?

A. Yes.

Q. What department was he working in?

A. The packing shed, I guess.

Q. In the packing shed?

A. Packing department I guess they call it.

Q. Looking at Exhibit 8 for identification, the clock card of Leo Stafford, for the week ending October 29, 1940, would you say that employees in the packing shed were permitted to punch in the time clock between 6:46 and 7 that week?

A. Yes, they punched in after we did, I guess.

Q. Between 6:46 and 7 o'clock?

A. Yes.

The Master: Let me see that.

(Exhibit handed to the Master.)

Q. (By Mr. Cooper) Now, it is a fact, isn't it, that employees in the packing shed and in the brushing and dipping department and the glost belt all punched that same time clock?

A. Yes. * * *

Q. As a matter of fact, if you weren't permitted to enter the factory building at all until 7 o'clock, you couldn't have got in as much time dipping, could you?

A. Probably worked us later at night.

Q. Supposing you couldn't get into the building until 7 in the morning, and you were compelled to be out of there clean and away at 4 o'clock, you couldn't have gotten in as much dipping in between, could you?

A. As what?

Q. As if you were permitted to enter some time between 14 minutes to 7 and 7 o'clock, and leave some time between 4 o'clock and 14 minutes after 4?

A. No, I don't imagine you could.

Q. Steve, showing you Exhibit 1-D, your time card for the pay ending December 31st, 1939, that indicates, does it not, that you worked on Wednesday, Thursday, Friday and Saturday in that week (handing exhibit to witness)?

A. Yes, I guess it does. * * *

Q. (By Mr. Cooper, continuing) In other words, those were the only four days you worked during that two-week pay period?

A. December?

Q. Does Exhibit 1-D indicate to you that those four days were the only days you worked during that pay period?

A. Yes, I imagine it does. * * *

Q. (By Mr. Cooper) Showing you Exhibit 2-A, does that refresh your recollection as to whether on December 26th, 1939, you received a pay of $83?

A. Not for four days' work.

Q. No, this was going back to December 26th, that would cover the preceding two weeks?

A. Yes.

Q. And then on December 31, 1939, you got another pay of $36.69?

A. Yes.

Q. Covering, according to the company's records, 30½ hours work?

A. Yes.

Q. Between December 26th and December 31st?

A. Yes.

Q. On this same day, December 31, 1939, you also received a check for $47.80?

A. Yes; a bonus check, yes.

Q. Showing you Exhibit 2-A, does that indicate to you that for the two weeks' pay ending August 8th, 1939, you earned $99.42?

A. Yes.

Q. And that then for the next two weeks ending August 22, 1939, you earned $102.45?

A. Yes.

Q. And were credited with having worked 86¾ hours during that two weeks?

A. Yes.

Q. And then on August 25, 1939, that would be just three days later, wouldn't it?

A. Yes.

Q. You were paid $43.89?

A. Yes.

Q. And that wasn't pay for work done between August 22nd and August 25th, so far as you can tell, was it?

A. It was a vacation check, I guess.

Q. As a matter of fact, you didn't do any work between that period of August 22nd and August 25th? • • •

February 20, 1942

STEVE ANDERSON, thereupon resumed the stand as a witness on behalf of the Plaintiffs, and being previously duly sworn, testified futher as follows:

Cross Examination (Continued)

By Mr. Cooper:

• • •

Q. I show you, witness, Exhibit 1-JJ. That is your time card for the pay ending February 25, 1941, is it not (handing exhibit to witness)?

A. Yes.

Q. Now, the first morning in that pay period the dipping department started at 6:46, is that right?

A. I imagine so, yes.

Q. And the second morning, was that a morning when the department started at 6:46, too? • • •

A. I imagine so.

Q. And the next morning again 6:46?

A. I imagine so, yes.

Q. And then on Monday was 6:46 again the starting time?

A. I imagine so.

Q. And the next day what was the starting time of the dipping department?

A. I imagine 6:32.

Q. And the next day—

A. (Interrupting) Or 6:31.

Q. (Continuing) What was the starting time of the dipping department?

A. I come in at 8:39. I don't know what time.

Q. You don't know what time the department started that day?

A. No.

Q. On this day you punched in at 8:39 the department might have started at 6:31 or 6:46, is that right?

A. It could be possible.

Q. You think the department might have started at 8:45 that morning?

A. No; I could have had the day off that day and they came and got me.

Q. As to that day, you just don't know?

A. That happened quite frequently when I had a day off they would come and get me. Some of the other dippers would be sick.

Q. And, as to that day, you don't know just what the starting time was for the dipping department?

A. No, I wouldn't know.

Q. Now, the next day, what was the starting time for the dipping department?

A. I imagine 6:46.

Q. You say you imagine 6:46?

A. Yes. From what I can make out on the card there. I couldn't swear by looking at a card two or three years ago what time the department started that morning.

Q. Well, it wasn't the time when the department started at 7:01, was it?

A. I wouldn't know that.

Q. Well, I think you testified yesterday that you couldn't punch in before starting time?

A. Some mornings I was ordered in ahead of the rest of the department. When I would be working on the colored ware, and we would be a little short on ware there, I would go in 15 minutes before the rest of our department would go in.

Q. Well, do you mean to say now that the department didn't have an established starting time?

A. Well, for the majority they did, but on occasions such as I just told you about.

Q. If you punched in at 6:46, or shortly thereafter, that would mean that the starting time for the majority of that department that day was 6:46, would it not?

A. It might be 6:46, but if this was one of the times when the foreman told me to come in earlier, the department might start at, say, 7:01, 15 minutes later.

Q. In other words, you say now the department didn't come in as a group?

A. No, sometimes, as I said, they would have some of us come in earlier and some of the times the brushing girls would come in 15 or sometimes as high as half an hour earlier than the dippers.

Q. Well then, on any of the days shown on this Exhibit 1-JJ, you didn't observe, as far as you can recall now, when the other people in the dipping department did come in?

A. No, I couldn't recall now, no.

Q. You wouldn't know when they came in?

A. No.

Q. You do know, though, that they didn't all come in at 6:46?

A. I couldn't swear to that, either.

Q. You know at least that you didn't?

A. That I didn't.

Q. Come in at 6:46 every day shown on the clock card, Exhibit 1-JJ?

A. No, not every day, no.

Q. As a matter of fact, it is true that there is only one day on there when you did come in at 6:46?

A. Yes, that is right.

Q. But you think so far as you can recall that on those days when you punched in at 6:46 or 6:52 or 6:48 or 6:49, that the majority of the department was permitted to come in at 6:46 on that day?

A. Yes, as far as I know, yes.

Q. Showing you Exhibit 1-H, your time clock card for the week ending November 26, 1940; as far as you can tell, what was the time the dipping department started in that morning?

A. I can tell what time I started.

Q. You can tell what time you punched your time clock by looking at it?

A. Yes.

Q. Does that indicate to you that unless it was an exceptional day and you came in before the others, that the department came in between 6:46 and 7:00?

A. Will you state that again, please?

Q. Does that indicate that unless this was an exceptional day when you came in ahead of the rest of your department, that on that day the department punched in between 6:46 and 7:00?

A. I don't know; you asked that question so long I forget the first part of it by the time you get to the last.

Q. I will try and shorten it up. You rang the time clock at 6:52 that morning?

A. Yes.

Q. Do you know what time you were expected to start, do you know what time you were expected to ring in that morning?

A. I imagine 6:46.

Q. You don't know whether you were or not?

A. Well, I know we didn't—we couldn't punch in before we were told to.

Q. Yes, you told us that. You don't know, for instance, whether you were expected to punch in at 6:31 that morning?

A. No, I don't.

Q. If you were supposed to punch in at 6:31 and punched in at 6:52, at least you were not sent home for it, were you?

A. No.

Q. You worked all that day, didn't you?

A. Yes. I think if I was supposed to punch in at 6:31 and came in late like that they likely would have sent me home.

Q. So you don't think you were expected to punch in at 6:31 that day?

A. I don't think so, no.

Q. What time do you think you were expected to punch in that day?

A. I imagine 6:46.

The Master: Were you ever criticized by your foreman or anybody in the department superior to yourself, for coming in late when you came in at 6:48 or 6:49 or 6:52?

A. Yes, the foreman used to call the department together and raise the devil with us.

The Master: When did this happen?

A. Oh, he did that on quite a few occasions.

The Master: What was the foreman's name, again?

A. Mr. Harms, Ernest Harms, and Mr. Roth, also.

The Master: What did he say on these occasions?

A. When he used to give us the devil for not getting in there, when he told us to, we would try to explain different things to him, but he knew it all.

The Master: Was there any talk as to whether you were being 2 or 3 minutes late every day?

A. Yes, he used to come around about that, too.

The Master: Did he do that with you personally or the whole department?

A. The whole department.

The Master: Did he ever single you out?

A. Yes, he gave me the dickens one morning I came in I guess after 7 o'clock, I was 15 minutes late, or something like that, and he had another man on my job; I think I came in at one minute after 7:00, something like that.

The Master: What I am particularly interested in is on these days when you came in late, from 2 to 5 minutes later, 6:48 or 6:52, when you were supposed to be there at 6:46, was there ever any criticism of you personally by your foreman when you came in 2 to 6 minutes late?

A. Yes, he used to raise the dickens with us. "I want you to get up to that clock and stand there until the clock turns."

The Master: Was this at a meeting that he told you that, or did he tell you individually?

A. Well, when we were working on cups, he would get a couple of us and give us the devil. Then he would get a couple of others and give it to them. He wouldn't direct it personally at me, but there was only two of us working on one job.

The Master: He would direct it at the two of you?

A. Yes.

The Master: When did these conversations happen?

A. As soon as we got in.

The Master: Would it be before the first strike took place?

A. Yes, before the first strike. After the first strike he told us we didn't have to come until 7:00. He told us to come in at 7 or 6:45.

The Master: How long before the first strike took place?

A. That was after the first strike he told us that.

The Master: Yes, but with respect to saying you should come in at 6:46, and criticizing you for coming in late, how long before the first strike took place did these criticisms occur?

A. Oh, up until about six months.

The Master: Up until six months before the strike?

A. Yes. And when they found out our union was getting pretty strong, they didn't ride us so bad.

The Master: Did the foreman take your time clock card to you at any time and point out that you were getting there at 6:48 and 6:49 when you should be getting there at 6:46?

A. No, he didn't do that.

The Master: He just told you to get there at 6:46?

A. Yes. In fact, when he told us we should be there at 6:46, he said, "I don't mean 6:50, I mean 6:46." And we are all human, we can't get there at 6:46 in the morning. I think any man that says he done it is telling a lie.

The Master: Go ahead.

Q. (By Mr. Cooper) Showing you again, witness, Exhibit 1-H, in the second day of that pay period, you punched in at 6:55 that day, didn't you?

A. Yes.

Q. And you weren't sent home for that?

A. No, sir.

Q. Do you remember anything said to you that day about the time you punched in the time clock?

A. No, I couldn't remember anything said that day, no.

Q. Do you know what time you were supposed to punch in that morning?

A. I imagine 6:46.

Q. You don't know whether it was, or not? Or, do you know whether it was 6:46?

A. Yes, I am pretty sure.

Q. It was 6:46?

A. Yes.

Q. Now, the next day you punched in at 6:51, didn't you?

A. Yes.

Q. You weren't sent home that day?

A. No.

Q. What time were you supposed to punch in that day?

A. I imagine 6:46.
Q. Do you know whether it was 6:46 or not?
A. Well, I am pretty sure.
Q. You are pretty sure it was 6:46. Do you remember anything said to you that day for punching in at 6:51?
A. No. I punched out at 11:56 that day, too.
Q. What time did you punch in the next day?
A. 6:56.
Q. What time were you supposed to punch in that day?
A. I imagine 6:46.
Q. Don't you know?
A. I am pretty sure.
Q. You worked all that day, didn't you?
A. Yes.
Q. What time did you punch in the next day?
A. 6:52.
Q. What time were you supposed to punch in?
A. I am pretty sure it was 6:46.
Q. And again you worked all day, didn't you?
A. Yes.
Q. Do you remember anything being said to you that day about—
A. (Interrupting) No.
Q. (Continuing) —punching in late?
A. No.
Q. Again the next day you punched in at 6:51?
A. Yes. I imagine it was 6:46, supposed to.
Q. The next day 6:52?
A. Yes.
Q. And the next day at 7.06?
A. Yes.
Q. And the next day at 6:50?
A. Yes.
Q. What time were you supposed to punch in that day?
A. I am pretty sure 6:46.
Q. And then the next day of that pay period, what time did you punch in?

A. 6:51.

Q. What time were you supposed to punch in that day?

A. I imagine 6:46.

Q. Well, was it 6:46 or do you think it might have been 6:40 or 7:01?

A. Well, I am pretty sure it was 6:46.

Q. Do you remember anything being said to you that day about it?

A. No, I don't even know what day it was.

Q. Well, then, there isn't a single day in that two weeks period when you punched in as early as 6:49, is there?

A. No.

Q. 6:50 is the earliest?

A. Yes.

Q. And some of the days you punched in later than 6:50?

A. Yes.

Q. And you weren't sent home any of those days for being late?

A. No.

Q. Now, would you say that the rest of the department probably came in at 6:46 or thereabouts on those days?

A. I imagine so. I wouldn't—

Q. (Interposing) Are you pretty sure of it?

A. It is according to what they were working on, I imagine.

Q. You are pretty sure that was probably—

A. (Interrupting) You asked me, and I am telling you.

Q. I am asking you.

A. I couldn't swear to it, no, but—

Q. (Interposing) You don't think so?

A. In fact, I am pretty sure.

Q. In fact, you are pretty sure?

A. Yes.

Q. Do you know Arthur Baxter?

A. Yes.

Q. Where did he work?

A. Well, he worked dipping, and he worked on the dipping machine on the spray machines.

Q. Is that in the dipping department, too?

A. Yes.

Q. How about Clarence Burgess?

A. He worked in the dipping department.

Q. Nelson Buchtman?

A. Yes.

Q. Catherine May, where did she work? • • •

A. I think she worked in the brushing department.

Q. (By Mr. Cooper, continuing) Was the brushing department in a way a part of the dipping department?

A. Yes, I guess it was.

Q. Was the operation that after a piece had been dipped it would be brushed?

A. No. It was brushed before it could be dipped.

Q. It was brushed before it was dipped?

A. Yes.

Q. The brushing was to remove dust or particles of dirt, is that right?

A. Yes.

Q. Do you know where Luella Rohrbeck worked?

A. She worked in the dipping department.

Q. She was a dipper's helper, was she?

A. Yes. She worked on cups.

Q. Where did George Schroeder work?

A. Well, he worked—he was a dipper, and then he worked on the spray machines.

Q. And they were in the dipping department?

A. Yes, but they didn't come in at the same time as the dippers, as a rule. • • •

Q. Did Mary Sawicki work a spring machine?

A. I think she did; I think she still works on the white spring machine.

Q. That is all a part of the dipping department, isn't it?

A. Yes.

Q. Do you know Louis Thurman?
A. Yes.
Q. Was he a dipper, too?
A. Yes.
Q. And do you know William Wendt?
A. Yes.
Q. He was a dipper, too?
A. Well, he dipped and he carried ware, that is, carried ware off the cups.
Q. Was that last operation outside the dipping department?
A. No, that was in the dipping department.
Q. It is all in the dipping department?
A. Yes. * * *
Q. (By Mr. Cooper) Now, you told us, Steve, that on the first day shown on the card for the pay period ending November 26, 1940, that is Exhibit 1-H, you punched in at 6:52?
A. Yes.
Q. And you said you were pretty sure that 6:46 was the starting time for the dipping department that day?
A. I imagine so, yes.
Q. In fact, you said you were pretty sure?
A. Yes.
Q. Showing you Exhibit 19, what time did Arthur Baxter punch in that day?
A. 6:31.
Q. And Clarence Burgess?
A. 6:31.
Q. And Nelson Luchtman?
A. 6:52.
Q. And Katherine May?
A. 6:51.
Q. And Lonella Rohrbeck?
A. 6:53.
Q. And George Schroeder?
A. 6:52.

Q. And Clarence Schwartz?
A. 6:19.
Q. And Mary Sawicki?
A. 10:46.
Q. And Louis Thurman?
A. 6:51.
Q. And William Wendt?
A. 6:56. Let me take them cards and explain that, will you?
Q. You will have a chance to do that; I want to ask you a few more questions. Now, on the second day shown on that same time clock card, you punched in at 6:55?
A. 6:55.
Q. And there again Arthur Baxter punched in at 6:31 on that day?
A. Yes.
Q. And Clarence Burgess at 6:31?
A. Yes.
Q. And Nelson Luchtman at 6:55?
A. Yes.
Q. And Katherine May at 6:32?
A. Yes, that is right.
Q. And Louella Rohrbeck at 6:52?
A. Yes.
Q. And George Schroeder didn't work that day?
A. No.
Q. And Clarence Schwartz at 6:21?
A. Yes.
Q. And Mary Sawicki at 10:47?
A. That is right.
Q. And Louis Thurman at 6:55?
A. Yes.
Q. And William Wendt at 6:41?
A. Yes.
Q. Going over now to Exhibit 1-JJ again, the second day on that pay period you punched in at 6:52?
A. 6:52, yes.

Q. And Arthur Baxter punched in at 6:51?
A. Yes.
Q. And Clarence Burgess punched in at 6:51?
A. Yes.
Q. And Nelson Luchtman punched in at 6:51?
A. Yes.
Q. And Katherine May at 6:31?
A. Yes.
Q. And Louella Rohrbeck at 6:53?
A. That is right.
Q. And Clarence Schwartz at 6:18?
A. Yes.
Q. And Mary Sawicki at 10:47?
A. Yes.
Q. And Louis Thurman at 6:52?
A. That is right.
Q. And William Wendt at 6:51?
A. Yes.
Q. There was nobody punched in at 6:46 that day, apparently?
A. No, not on those cards.
Q. You wouldn't know, I presume, whether anybody else in the department might have punched in at 6:46 that day or not?
A. Well, if you will get the rest of the cards, I think you will find that they did.
Q. But you don't know. You guess that some of them might have punched in at 6:46?
A. Yes.
Q. As a matter of fact—
A. (Interrupting) I am pretty sure they punched in at 6:46.
Q. As far as you can tell, apparently different people working in the dipping department punched in at quite a variety of times that day, didn't they?
A. Yes.
Q. (By Mr. Cooper) Taking the next day now, being

the third day appearing on Exhibit 1-JJ, you punched the time clock at 6:52 that morning?

A. Yes.

Q. Arthur Baxter came in at 6:52 likewise?

A. Yes.

Q. Clarence Burgess at 6:41—6:51?

A. Yes.

Q. Nelson Luchtman at 6:51?

A. Yes.

Q. Katherine May at 6:31?

A. Yes.

Q. Louella Rohrbeck at 6:53?

A. That is right.

Q. Clarence Schwartz at 6:22?

A. That is right.

Q. Mary Sawicki at 10:46?

A. Yes.

Q. Louis Thurman at 6:52?

A. Yes.

Q. William Wendt at 6:51?

A. Yes. • • •

Q. And you can't remember what time you punched in any particular day?

A. No.

Q. Except as you look at the time clock card?

A. That is right.

Q. You can't remember what time you arrived at the plant at any particular day?

A. No.

Q. You can't remember whether the time clock cards show how many Saturdays, if any, you worked during that period?

A. No, I couldn't. • • •

Q. (By Mr. Cooper): Now let's take Thursday, the second Thursday on this Exhibit 1-H, being your time clock card for November 26, 1940; on that morning you punched in at 6:52, is that right?

A. Right here (indicating), yes.

Q. And William Wendt on that day punched in at 6:38?
A. Yes.
Q. And Louis Thurman punched in at 6:51?
A. Yes.
Q. And Mary Sawicki at 6:52?
A. Yes.
Q. And Clarence Schwartz at 6:51?
A. Yes.
Q. And Louella Rohrbeck at 6:52?
A. Yes.
Q. Catherine May at 6:31?
A. Yes.
Q. Nelson Luchtman at 6:16?
A. Yes.
Q. Clarence Burgess at 6:31?
A. Yes.
Q. And Arthur Baxter at 6:31?
A. Yes.
Q. And the next day you punched in at 7:06?
A. Yes.
Q. And William Wendt punched in at 7:06 too?
A. Yes.
Q. Also Louis Thurman?
A. Yes.
Q. Mary Sawicki at 6:32?
A. Yes.
Q. Clarence Schwartz at 7:06?
A. He punched in earlier, didn't he—yes.
Q. Clarence Schwartz at 7:06?
A. Yes.
Q. Louella Rohrbeck at 7:06?
A. Yes.
Q. Catherine May at 6:32?
A. Yes.
Q. Nelson Luchtman at 6:19?
A. Yes.
Q. Clarence Burgess, 6:31?

A. Yes.

Q. Arthur Baxter, 6:31?

A. Yes.

Q. You would say then, would you not, with reference to these two particular weeks that these employees in the dipping department punched in at the more or less scattered times as shown on the cards, some of which I have asked you about specifically?

A. Yes, those particular employes, yes. • • •

Q. Do you know a dipper by the name of Baxter?

A. Art Baxter, yes.

Q. He worked pretty close to you in the department there, did he not?

A. No, not always.

Q. He did at times? He was in the same department anyhow?

A. At times, yes.

Q. He was in the same department about a year ago, was he?

A. Yes.

Q. You don't know just what time his working day started on any particular day, then, do you?

A. Some days he would come in, when he was working on cups, he would come in fifteen minutes to a half hour before we did, when they were short on cups.

Q. I think you said you are president of Local 1083 of the United Pottery Workers of America?

A. That is right.

Q. You are plaintiff in the suit, of course?

A. Yes.

Q. Steve, did you start this suit because the union was starting it?

Mr. Lamb: Objection.

Mr. Cooper: I think it is a proper question. Motivation is an issue. • • •

The Master (Interposing): I will take the question under advisement and not permit the question to be answered until I am more satisfied of the propriety of the question. • • •

Q. (By Mr. Cooper): Steve, did you talk to anyone about starting this suit before starting it?

Mr. Lamb: Objection. • • •

The Master: I will let him answer the question. • • •

A. Yes.

Q. (By Mr. Cooper): Did you talk about it at union meetings?

A. Yes, I did.

Q. As a matter of fact, the seven or eight individuals named as plaintiffs are all members of the union too?

A. Yes. • • •

Q. (By Mr. Cooper): After the suit was started, did you talk with anybody about the progress of the suit?

A. Yes, I did. • • •

Q. (By Mr. Cooper): As a matter of fact you solicited former employees to sign these designations, did you not? • • •

A. No, I didn't.

Q. Did you ask anybody to sign the designation?

A. No, they volunteered to sign.

Q. So far as any signatures that you secured, you say they came in just voluntarily?

A. Yes. • • •

Q. (By Mr. Cooper): You had one or more of these designations with you at various times, did you, so that if anybody wanted to sign it they could come up and sign it?

A. No, sir, I never had one of those with me.

Q. You never had one of these at any time?

A. No, sir; they were in the hall.

Q. You had it in the hall?

A. Yes.

Q. In the hall of what building?

A. Our Union hall.

Q. Did you tell anybody that they were up there?

A. No, I don't think—well, I told them in the hall that I was starting a suit of my own, and, naturally, well, they wanted to get in on it too. They would tell us what they had to do under the Wage and Hour, just whether they had to come in at 14 minutes to, or whether they charged

them for sponges, and different things like that, and they would sign that, whatever you call it that, designation.

Q. As a matter of fact, didn't you tell them all they had to do was to sign up and they would get a lot of money?

A. No.

Q. Never said anything like that?

A. No, sir.

Q. Never told them whether there was going to be a recovery of a large sum of money?

A. No, I didn't know how much money they would recover. They would get just what they had coming under the Wage and Hour Law. • • •

Q. (By Mr. Cooper): Isn't it a fact that you told some of these people whose names are signed here, that it wouldn't cost them anything to sign up and be represented?

A. No, I don't think I did.

Q. Would you say that you didn't?

A. Yes, I would.

Q. None of these people before they signed ever asked you whether some expense was involved to them?

A. No, I don't think they did.

Q. In becoming represented here?

A. No, I don't think they did.

Q. You don't think that was ever mentioned?

A. No.

Q. You do think no one ever signed it except persons who walked into the Union hall and signed it there, is that right?

A. That is right.

Q. As far as you know, these weren't circulated around at all among the employees or former-employees?

A. As far as I know, yes. No, they wasn't.

Q. By the way, who is paying the expense of this suit?

Mr. Lamb: Objection. • • •

The Master: I will take that whole question under advisement until some authority is produced on it.

Go ahead.

Q. (By Mr. Cooper): Witness, I show you Exhibit 1-LL, your time card for the period ending April 8th, 1941. I ask you whether there is a single morning on that time clock card when you punched in at 6:46?

A. No.

Q. Is there any when you punched in at 7:01?

A. No.

Q. Or at 6:31?

A. No, there isn't.

Q. What is the earliest you punched in any morning during that 2 weeks?

A. 6:48.

Q. And what is the latest?

A. 6:50. • • •

Q. (By Mr. Cooper): Showing you now your time clock card for the period ending March 25, Exhibit 1-KK.

• • •

Q. Are there any days in that pay period when you punched in at 6:46?

A. No.

Q. Or 6:31?

A. No.

Q. Or 7:01?

A. No, there isn't.

Q. What is the earliest you punched in during that two weeks?

A. 6:48.

Q. And what is the latest?

A. 10:46.

Q. Was it about a year ago that you referred to when you said you were required to continue at work until five minutes to 12 and then go out and punch the time clock before 12?

A. I don't know whether it was or not. We punched out sometimes before 12, didn't I? • • •

Q. Oh, you don't think, now, that you did continue work until five minutes to 12 and then hurry over so that you could get punched out before 12 o'clock?

A. Not every day, no.

Q. In other words, you might have quit work sometime between 11:45 and 12:00?

A. Yes. I might have quit work before 11:45.

Q. For instance, on this same Exhibit 1-KK that we were just looking at, indicating—perhaps I could save a little time, if there is no objection, by reading some of these entries.

The Master: Go ahead. You can read them to the witness. He can look on while you are reading them.

Q. (By Mr. Cooper): Indicating that during those two weeks you punched out on successive mornings at 11:53, 11:52, 11:49, 11:54, 11:53, 11:56, again 11:56, 11:55—

The Master: Wait a minute.

Mr. Cooper: Did I mis-read there?

The Master: The second "11:56" should have been "11:55."

Mr. Cooper: Thank you.

Q. (By Mr. Cooper): 11:55 and 11:42. Would you say that on any of those days you were dipping until five minutes to 12 and then be told to hurry over and punch out the time clocks before 12?

A. No.

Q. Showing you now Exhibit 1-JJ, your time clock card—as I understand it, when the dipping operations stopped at lunch time, the first thing that you do after you stop dipping would be to sort of brush off your apron with your hand?

A. No, sir.

Q. Do I understand that you didn't bother about brushing off your apron?

A. No, I had a rubber apron that I wore.

Q. Wouldn't there sometimes be a little material splash up on it that you would like to get rid of?

A. No. We used to brush it off all during the morning.

Q. And kept brushing it off every now and then?

A. Yes.

Q. If you notice something had splashed up on it, you would probably just sweep it off?

A. That is right.

Q. And then you would take the apron off?

A. By that time he told us to get out, I would have my apron off. Just had a snap on the back, and it was unsnapped and I would hang it up, and when we came in in the afternoon the glaze would be there, and we just give it a shake, and the glaze would be off of it.

Q. You would take off your apron before you went out to punch the time clock?

A. Yes.

Q. And you would rinse off your hands and face?

A. Put my hands in and give them a rinse, and we washed in the dressing room where we had warm water.

Q. And take off your finger cot?

A. Yes, I would be taking that off when we would go out. Put it in my pocket.

Q. Then you would walk over to the time clock?

A. Yes.

Q. Now, has it happened in a particular day that some other one of these departments we were talking about quit work a few minutes before 12, you would be mingling with them in the aisle as you went over to the time clock, would you not?

A. Well, we would be walking with them, yes, but we wouldn't—

Q. (Interposing): Yes. I don't suppose if there were several departments emptying out at one time, you could run very fast going over that little bridge that you spoke of, which you crossed going into and coming out of the dipping department?

A. Well, there wasn't several departments crossed that bridge.

Q. You wouldn't say the dipping was the only department that crossed it?

A. No. The dipping and the glost belt.

Q. Going back, then, to the third day on this time clock

card for March 25, 1941, you did all those things and punched out the time clock at 11:49, is that right?

A. That is right.

Q. And that would be figuring that you had been working up until 11:45?

A. 11:45—6.

Q. Showing you now Exhibit 1-JJ, is there any day on that—

The Master: (Interposing): I was just going to point out the first day at that time he went out at noon he is shown on the fourth column, he came in at 6:32 and checked out at 6:39, and came back in at 10:53. I don't know whether you noticed that.

A. I came in and worked a little while, and then he told me to have the day off.

The Master: Wait just a minute.

A. Before we do that.

The Master: You came in at 6:32 and checked out at 6:39. That is a lapse of time of 7 minutes?

A. Yes.

The Master: You couldn't be working long.

A. We would be getting the tub ready while we are waiting. • • •

Q. Now, is there any day shown on this exhibit when you punched in at 6:46?

A. Here?

Q. On that?

A. No.

Q. Or 7:01?

A. No.

Q. Or 6:31?

A. No, there isn't.

Q. What is the earliest you punched in during that pay period?

A. 6:32.

Q. And the latest?

A. 10:50.

Q. Showing you Exhibit 1-HH, your time clock card

for the pay ending February 11, 1941, is there any day on that time clock card, when you punched in at 6:46?

A. No.

Q. Any one you punched in at 6:31?

A. No, there isn't.

Q. Or 7:01?

A. No, sir.

Q. And what is the earliest you punched in during those two weeks?

A. 6:50.

Q. Most of the days on that card appear to be 6:50 or 6:51, don't they?

A. Yes, that is right.

Q. And one day—

A. (Interrupting): 10:51.

The Master: 10:51 or 10:55.

Q. (By Mr. Cooper): Showing you now Exhibit 1-GG, your time clock card for the two weeks ending January 28, 1941, did you punch in at 6:46 on any morning during those two weeks?

A. No.

Q. Or at 6:31?

A. Yes.

Q. That was on Friday?

A. Friday.

Q. Any 7:01's?

A. No, sir.

Q. What is the latest you punched in during those two weeks?

A. 11:01.

The Master: The majority of the entries seem to be 6:51 in the morning, is that right?

A. Yes.

The Master: At least, that is more common than any other figure on that. There is 6:51 and one 6:52, I believe.

Mr. Cooper: I think there are five days when you punched in at 6:51.

A. That is right.

Q. (By Mr. Cooper): Showing you Exhibit 1-F, your time clock card for the period ending January 14, 1941, what is the earliest you punched in during those two weeks?

A. 6:50, I believe.

Q. Is there any time there when you punched in at exactly 6:46?

A. No.

Q. Or 6:31?

A. No, there isn't.

Q. Or 7:01?

A. No.

The Master: All the entries here, with the exception of one that is crossed out, are 6:50, 6:51, and 6:52.

Q. (By Mr. Cooper): Showing you Exhibit 1-E, your time clock card for the period ending December 31, 1940, that was apparently a short pay period, was it not; only one week covered there?

A. Yes, I think that is when they took inventory and changed—

Q. (Interposing): Is there any day during that week when you punched in at 6:31 or 6:46 or 7:01?

A. No.

The Master: It might be noted that there is a 7:31 here, however. The other entries are all 6:51 or 6:52.

Mr. Cooper: And, it would appear that 7:31 might be an error, there being no other entry for that day.

The Master: That is true for that particular day, there is just that one entry.

Q. (By Mr. Cooper): Most of the days that week you were punching in about 6:51 or 6:52, weren't you?

A. That is right.

Q. Showing you now Exhibit 1-F, your time clock card for the period ending December 24, 1940, do you notice any days during those two weeks when you punched in at 6:31 or 6:46 or 7:01?

A. No.

Q. What is the earliest you punched in during those two weeks?

A. 6:50.

Q. Some days it was 6:52, wasn't it?

A. That is right. * * *

Q. Pursuant to the suggestion of the Master that the line of examination we were conducting just before noon be expedited, I will make that attempt. Steve, just glancing over your time clock cards for the year 1940, the same being Exhibit 1-E through Exhibit 1-EE, do you notice any large number of days on which you punched in at precisely 6:31 or 6:46 or 7:01?

A. You mean for me to go through these?

The Master: Before when you were questioning him specifically about some of these cards, were you in the 1940 group?

Mr. Cooper: It started with the 1941 group, if the Court please.

The Master: How far did you go?

Mr. Cooper: And worked back into December, 1940. I think we went through two of the December paydays.

The Master: All right, will you look through the cards, Mr. Anderson, and see if there are many days when you punched in at precisely 14 minutes before the hour or before the quarter-hour, that is, at 6:31, 6:46 or 7:01.

A. He just wants the morning, doesn't he?

The Master: Yes, that is just in the morning.

(Witness examines exhibits.)

The Master: Will you answer the question, then, as to whether there are many days when you punched in at 6:31, 6:46 or 7:01?

A. Yes, a lot of days. I would say the majority of the days.

The Master: I might say this. This isn't testimony, this is my own comment, but since I have been looking over the witness' shoulder as he was going through these exhibits, I note that there are a great many times, and on some cards almost every day, when he punched in at

6:31. There are very few, if any, times when he punched in at 6:46. It seems when he came in before 7:00, the usual time indicated—or shortly before 7:00, the usual time indicated is 6:51 or 6:52.

Would you say most of the days you have reference to are 6:31 and not 6:46?

A. Yes.

The Master: Did you notice any days in which you punched in at 6:46, in going through the cards?

A. No, I don't believe I did.

Q. You punched the time clock on your way to work in the morning, did you not?

A. Yes.

Q. And you punched it out again at night?

A. Yes.

Q. You don't claim that the elapsed time between the time you punched in at the time clock and the time you punched out you were actually at work dipping, do you?

A. No, not actually at work dipping, no.

Q. Now, if the hours were computed by starting with the time you punched in in the morning and figured right up through till the time you punched out in the evening, if I say they were computed on that basis, that is the way you figure, isn't it?

A. Yes.

Q. Then during the period of 40 hours figured that way, you wouldn't get in so much time actually at work in the dipping room within 40 hours, would you?

Mr. Lamb: Objection to the question. * * *

The Master: As I understand it, the question is not—if there was 40 hours elapsed time, taking simply the time clock records, that is 40 hours from the time you punched in in the morning until the time you went out at noon, until the time you punched in in the afternoon and the time you punched out at night, then less than 40 hours would have been spent in the dipping room itself. Is that the question you are getting at?

Mr. Cooper: That is right.

The Master: Can you answer?

A. Yes, it might have been.

Q. (By Mr. Cooper): Now, as I understand it—and, less time would actually be spent dipping, wouldn't it?

The Master: Less than 40 hours.

A. Yes.

The Master: When you say "less time," I think that is the word that is somewhat ambiguous. You mean less than 40 hours has been spent.

Mr. Cooper: Less than 40 hours have been spent dipping.

The Master: Is that right?

A. Yes. • • •

Q. That is right. Now, if you computed either an eight-hour day or a forty-hour week, on the basis of the time that you spent from the time you first punched in the time clock until the time you last punched out at the time clock, there would be not all of that time spent in the dipping room, is that right?

A. That is right.

Q. In other words, if you spent forty hours all told counting all the time from the time you punched in the time clock until the time you punched out, only a part of that time would have been spent in the dipping room?

A. Yes.

The Master: Don't you have any idea as to the method by which you were being paid?

A. I heard it was gang rate. How they figured it, I don't know; it was divided up between the gang, so much.

The Master: You said you kept track of your production one time out there?

A. Yes. • • •

The Master: Was it based upon the amount of production you got out during the day? Do you know that much, as to whether it was based on production, or whether it was a straight hourly basis?

A. I imagine it was based on production.

The Master: Was that your understanding?

A. That is what I imagine. What we got an hour, I never knew.

The Master: Well, you just imagined it was based on production, and you don't know whether they were supposed to be paying you on a production basis or not?

A. No, I never heard for sure, and any of the dippers that I talked to didn't know either.

The Master: Was the talk around the shop that you were being paid on a piece work basis?

A. Well, some of the fellows said we did and we were working gang rate.

The Master: You know what a piece work method of payment is as contrasted with an hourly method of payment, do you not?

A. Yes, be paid by the piece.

The Master: But you don't know whether you were being paid on a piece work basis?

A. No, I don't for sure.

The Master: Do you know whether you were being paid on an hourly basis?

A. No, I don't think we were paid on an hourly basis; I don't know. I imagine it was a piece work.

The Master: You think it was a piece work basis?

A. Yes.

The Master: So much per piece that either you produced or a gang of you produced?

A. I imagine so.

The Master: Well, if that is the case, and I am asking this question because Mr. Cooper was trying to get it, not because of my own interest in the problem, but if you were actually in the dipping room working on production 35 hours a week, you would produce less and get paid less than if you were working there 40 hours a week. If you were working 35 hours a week in the dipping room you would normally produce less than if you were working 40 hours a week, would you not?

A. Yes, I believe we would.

The Master: And if you were paid on the basis of production, you would normally get less pay working 35 hours a week than working 40 hours a week. That seems to me to be so elemental, I don't know why it is really necessary to question the witness about it. • • •

Mr. Cooper: It seems a curious thing that counsel for the plaintiffs and the witness seem so reluctant to admit what the Master has characterized as an obvious thing. I would like to have them admit it, though, on the record.

The Master: Isn't it obvious that, as an average proposition, in a 35-hour week, if he were being paid on a piece work basis, he would make less money in a 35-hour week than a 40-hour week?

Mr. Lamb: If the conditions were the same, if there were no stoppages and so on.

The Master: That is why I put in the statement about the average week.

Mr. Lamb: There is no question about it, that is obvious.

The Master: Will the witness agree to that?

A. Yes, sir. • • •

Mr. Lamb: If the conditions are comparable.

A. Yes. I believe so, yes.

Q. (By Mr. Cooper): And you have agreed, as I understand it, Steve, that if that 40 hours was figured starting from the time you punched in in the morning, going up to the time you punched out at night, you would be spending less than 40 hours during that week at your work in the dipping room?

A. Yes, in the dipping room.

Q. In other words, the adoption of that system would mean that you would be, under normal conditions, earning less money in a 40-hour week?

Mr. Lamb: Object. • • •

Mr. Cooper: Suppose we excuse the witness.

The Master: All right, I will excuse you from the room while he is arguing.

(The witness was thereupon excused from the courtroom.) • • •

(The witness resumes the witness stand.)

Q. (By Mr. Cooper): Getting back to this again, if your time was figured on the so-called time clock card basis, you would be spending less time every day in the dipping department?

The Master: Spending less time in the what?

Mr. Cooper: Less time every day in the dipping department.

Mr. Lamb: Less time than what?

The Master: You have a comparative question and you don't state the alternative. You say if your time was figured by this method you would be spending less time.

Mr. Cooper: I will re-phrase my question.

Q. (By Mr. Cooper): You are familiar, Steve, with two methods of computing here, one what we might call the company method; by that I mean are you familiar with the method of computation by which, for example, on Exhibit 1-X, the company figures that you worked eight and one-quarter hours that certain day?

A. Yes.

Q. Let's call that the company method of computing hours worked.

A. Yes.

Q. Now, you claim that there is another way of computing hours worked, is that right?

A. Yes.

Q. And that would be by simply subtracting one time item from the next on the time clock card, is that right?

* * *

A. Yes.

Q. (By Mr. Cooper): You are familiar, then, with two possible systems of computing hours worked?

A. Yes.

Q. Calling one the company system and the other, let's call it the time clock system?

A. Yes.

Q. Now, if you worked 40 hours in a week, computed on the time clock system, think of that and then think of working 40 hours a week, computed on the company system. Now, is that clear so far?

A. Yes.

Q. Isn't it true, Steve, that computing it on the clock card system, fewer of those 40 hours would be spent in the dipping department?

Mr. Lamb: Objection. * * *

The Master: Frankly, I think that is within the scope

of my ruling that it is not a question for the witness, but a question for the Court as to a comparison of the two systems, and I will sustain the objection on that ground.

• • •

Q. (By Mr. Cooper) You told the Master a few minutes ago, did you not, that under normal conditions if you were only working 35 hours, actually working in the dipping room during the week, you would expect to earn less money if you actually worked 40 hours in that same dipping room, that is, the conditions being the same?

A. I think I said "yes" to it.

Q. Didn't you tell the Master a little while ago that under normal production conditions you would expect to earn less money if you worked 35 hours in that dipping room than if you worked 40 hours in that dipping room?

A. Did I say under normal production? I think I said "yes."

Q. Yes. And isn't it likewise true, now, taking it on the basis of a day, that during a normal day's production, if you were actually at work dipping in the dipping room for only seven hours, you wouldn't expect that you would earn as much money as if you were actually dipping for eight hours, would you?

A. No. • • •

Q. Do you know, Steve, or do you remember whether back in 1939 inspectors from the Wage and Hour Division inspected the Mt. Clemens Pottery Company? • • •

A. No, I don't know. • • •

Q. (By Mr. Cooper) Do you know whether any settlement was made out there in 1939 with the approval of the Wage and Hour Division?

Mr. Lamb: Objection.

Mr. Cooper: Just asking if he knows.

The Master: I will overrule the objection.

A. No, I don't know if any was made, any settlement.

Q. (By Mr. Cooper) Do you know whether you received money in any such settlement?

A. No.

Q. Do you mean that you do not know whether you did or not?

A. That is right.

Q. Isn't it a fact that you received an extra check in the sum of $7.30?

A. I think I did.

Q. Oh, you think you did?

A. Yes. • • •

Q. (By Mr. Cooper): What was that extra check for?

A. I don't know. I received a couple of checks like that. Once I received a check for a couple of dollars. I don't know what that was for. I also received a couple of checks from Mr. Doll for umpiring ball games out there. • • •

Q. (By Mr. Cooper): Showing you Exhibit 29-B, for identification, is this the paper you signed at that time (handing paper to witness)?

A. I don't know. I imagine it is; that is my name on there.

Q. That is your name on there?

A. Yes.

Q. And this is a carbon copy. That appears to be your signature written in there, doesn't it?

A. Yes, it looks like it.

SUMMARIZE LINE 16, PAGE 827, THROUGH LINE 25 ON PAGE 830, AS FOLLOWS:

"Exhibit 29 received."

Re-Direct Examination

By Mr. Lamb:

Q. Mr. Anderson, during cross-examination by Mr. Cooper there was some reference to meetings being held among the employees of the Mt. Clemens Pottery Company. Would you be able to tell us where those meetings occurred, and when they occurred?

A. Well, our meetings—we used to have a meeting, I think it was, every Thursday at noon. We would

go up in the cafeteria and they were held right off the cafeteria, and we would go up in the cafeteria and eat our dinner and then we would have to get into the meetings by 12:30, and these meetings were—they had charges in there to show the percentage of thirds, and the foremen would talk to us, bawl some of us out—

The Master (Interposing): Shows what? I didn't understand when you said it showed the percentage of something.

A. Thirds. They had charts for saucers, and a different chart for 9-inch plates, and 7-inch plates, and different charts for cups, and so on, and on these charts it had a regular—I don't know what you would call that line that zig-zags up and down as the percentage goes higher the line goes up.

The Master: A graph or chart.

A. Yes. And, we would discuss that, and there was a regular general meeting that would last probably all the way from 20 minutes to sometimes a half hour.

Q. (By Mr. Lamb): Was it compulsory that you attend these meetings?

A. Oh, yes.

Mr. Cooper: I object to this question and move the answer be stricken. That—

Mr. Lamb (Interposing): I will ask him what his instructions were.

The Master: Ask him why he attended the meetings, and what his instructions were.

Mr. Cooper: And by whom.

The Master: We will get that.

A. I received my instructions from my foreman to be there. In fact, when we had days off we had to come into the shop to attend the meetings.

The Master: When did you receive the instructions from the foremen?

A. We received them at every meeting. He used to say he wanted everybody there.

The Master: How frequently did these meetings occur?

A. About every week until—

The Master (Interposing): Once a week, you mean?

A. Yes.

Q. (By Mr. Lamb, continuing): Did they occur after or before you had punched the time clock? In other words—

A. (Interrupting): This would occur during the noon hour.

Mr. Nunneley: He said "until." When was that until?

Mr. Cooper: Shouldn't that be finished up?

A. Up until, oh, I would say just before the first trouble we had up there, the first walk-out.

Q. (By Mr. Lamb, continuing): Did you say these meetings had occurred before or after you had punched your time clock cards out at noon?

A. After we punched the time cards out.

Q. In other words, you punched your time clock cards out and would you attend these meetings after having had lunch?

A. Yes. And—

The Master (Interposing): How long would these meetings last? Pardon me, did you have something to add to that?

A. I was going to tell about some other meetings.

The Master: Let me first ask about these; how long did these meetings last?

A. They would last various lengths of time. Sometimes they would last, oh, twenty minutes, sometimes a half hour.

Q. (By Mr. Lamb): I think the Master asked who spoke at those meetings?

A. Well, at these noon meetings most generally the foremen would speak and when Mr. Harding was alive he used to come in and speak at the meetings.

Q. Who was Mr. Harding?

A. I don't know; he told me he was the "trouble-shooter" around there, I guess he was a supervisor, or something of that sort.

Q. Did Mr. Doll, Sr., ever appear at those meetings?

A. No; he used to talk to the meetings when we would get the whole group together, get the whole departments, the different departments, we would have a meeting right in the cafeteria after we were through eating. * * *

Mr. Cooper: I might as well move at this time, if the Court please, that this line of testimony be stricken on the ground that there is no foundation for it in the pleadings.

The Master: While this witness is on the stand, I will rule that at present I don't see that it is within the scope of the issues before me.

Mr. Lamb: I would like to make a proffer.

The Master: But you can question this witness on it while he is on the stand. * * *

Q. (By Mr. Lamb): Mr. Anderson, how frequently did you say these meetings occurred?

A. About every week, every Thursday.

Q. And how long did they last?

A. Oh, twenty minutes to a half hour.

Q. And other people in your department were required, for instance, to attend?

Mr. Cooper: If he knows.

A. Well, the girls—

Mr. Cooper (Interposing): Just a minute. There is no showing of the necessary foundation.

Q. (By Mr. Lamb): Tell us who attended the meetings.

A. Well, our meetings at noon, it was just the dippers.

The Master: Does that include the men and women?

A. No, just the men.

The Master: Did all of them attend?

A. Yes, we had to attend. We would catch hell if we didn't. And I believe the girls had their meetings after work at night.

Q. (By Mr. Lamb): Did your time clock cards which have been offered in evidence show the time spent in these meetings?

A. No, we never punched the clock.

Q. That is, you didn't punch the clock as of the time you went into the meeting and out of the meeting?

A. No.

Q. Did you tell us how long each meeting was, how long it lasted, approximately?

A. Various lengths of times. I would say from twenty minutes to a half hour. • • •

Q. (By Mr. Lamb): Calling your attention to the document which the company has marked Exhibit 22, I will ask you if you know Catherine May, if you know who she is, what department she worked in?

A. Yes.

Q. What department did she work in?

A. She was a brusher. That is, the brushing department.

Q. Calling your attention to the next to the last item on Exhibit 22 for the week ending November 26th, 1940, I will ask you to read the time in which she punched her time card?

A. This one?

Q. Yes.

A. 6:32.

Q. And the time that she punched out for lunch?

A. 11:56.

Q. And the time that she punched back from lunch?

A. 12:32.

Q. And the time she punched out at night?

A. 3:56.

Q. I will now call your attention to the last item on that page and ask you what time Catherine May punched the clock?

A. It looks like 6:31. • • •

Q. Now, handing you Exhibit 19, Arthur Baxter of whom you have testified, is it not a fact that he reported in every morning at 6:31 during that two-week period except the very last morning when he appeared at 6:33?

A. That is right.

Q. Calling your attention to Exhibit 20, Clarence

Burgess, is it not a fact that he reported in at 6:31 every morning except on the first Monday, and the—

The Master (Interposing): Saturday.

Mr. Lamb: Saturday.

Q. (By Mr. Lamb): Except on the third item and the sixth item when he punched in at 6:32; is that correct?

A. Yes, sir.

Q. Mr. Anderson, will you advise us whether you have observed the other people in your department and in other departments of Mt. Clemens Pottery Company checking in at the time clock?

A. Yes.

Q. Each day during the time you worked there?

A. Yes.

Q. And will you advise the Court as to the time that—whether what you have testified to as the time necessary to go from the clock to the dipping department as representing less than one minute, does that apply in general to the other employees whom you have observed? * * *

Mr. Cooper: I object to that. * * * In the first place, I don't think there has been a sufficient basis laid for that question. There hasn't been any showing as to why the employees were observed. In fact, the witness' preceding testimony has been a good many employees he didn't observe at all.

In the second place, it involves a conclusion, and it is, obviously, just a guess and nothing more than that. I think a proper question would be who he saw, and when, and what he saw. * * *

The Master: Why don't you restrict it to the dipping department? I presume the other departments he couldn't tell unless they were right next to the dipping department, when they got into the department and what they did after they got in. As to the dipping department, did you observe the other employees punching their time clocks and then going over to the dipping department?

A. Yes.

The Master: Could you say as to how long it took them to get over?

A. Well, it would take about the same as it took me to go over there, go right along, there is no loitering or anything like that.

The Master: Were you faster or slower than the others, or just about the same?

A. Just about the same; I don't know that I was faster or slower.

Mr. Lamb: I think that is all.

Re-Cross Examination

By Mr. Cooper:

Q. With reference to this question as to the time you saw other employees walking over from the time clock to the dipping department, I don't understand that you can name the amount of time that any particular employee took on any particular day?

A. No, of course I can't.

Q. Are you still working for the pottery?

A. No.

Q. When did you quit?

A. I went on strike.

Q. When was that?

A. About three months ago, 13 weeks ago.

Q. Are you still on strike?

A. Yes.

Q. The strike continues in existence?

A. Yes.

Q. Have you taken work any place else?

A. No. • • •

JOHN ALVIN METZ, was called as a witness on behalf of the Plaintiff, and being first duly sworn, testified as follows:

Direct Examination

By Mr. Lamb:

Q. Will you give us your residence address?
A. Route 2, Utica, Michigan.
Q. Have you been employed by the Mt. Clemens Pottery?
A. I have.
Q. Will you give us the dates, the date when you began, or year in which you started work for the Mt. Clemens Pottery Company?
A. 1931, December 26.
Q. And you have worked how long?
A. Well, it would have been ten years this last December.
Q. What department or departments have you worked in, Mr. Metz?
A. Mostly the clay shop. . . .
Q. (By Mr. Lamb) Now, when you refer to the clay shop, will you tell us of what you speak when you call it the clay shop?
A. Well, the clay shop is the department where the ware is actually made, that is, forming the ware. It is divided up into three different departments, clay flat, clay cups and clay cast ware, like a sugar bowl or cream pitcher, or something like that, that would be cast ware, something that they can't jigger by hand or tool, they cast it. . . .
Q. (By Mr. Lamb): Are the jigger men in that department?
A. Yes, sir; I was one of them.

Q. I see, you are known as a jigger man?

A. Yes.

Q. Now, will you tell the Master what the operations performed by jigger men are?

A. Well, you have got a man working with you and a girl. The girl is classified as a finisher, and the man is a batter-out. And, the batter-out puts the clay on the mold and shoves it up to the jigger man and the jigger man takes the mold and puts it in a revolving head and it has got a tool like a handle that you pull down and you bring the tool down on that and form the back. By using water on the back you make it nice and smooth, and you have a scraper in one hand and you scrape the edges down so they are even all the way around the mold.

The Master: Then when you get through with that process, is the clay in a soft condition or is it hardened in some way?

A. Well, the clay is in a workable condition, you know, it is not running, or anything, but molds can go through the mangle that we work on, they are kind of warm, and as the clay hits it it more or less keeps it in the same condition; you can put water in the back and the water is just an action of keeping the tool from dragging on the clay and making it rough, and after you take your mold out of the ring you put it up in the mangle, up on the shelf that is going all the time and you are ready for another one. That is what a jigger man does.

Q. (By Mr. Lamb): As I understand it, the mangle is the dryer?

A. That is the dryer, yes. Do you want me to explain it?

The Master: Yes, go ahead.

A. They have got two types there. They have got a steam and a hot-air. The hot-air mangles has 67, 68 shelves in, on a continuous chain, and the jigger head runs with the mangle. The head is set at a certain speed and so is the mangle. And on certain types of ware, small ware, there is some small wares that they put up

7 and 8 molds to a shelf, and what we figure, there is two compartments to a shelf, there is 68 double compartments to a round.

The Master: Then when it is put in the mangle, is that just at room temperature, is it dried at room temperature, or is heat supplied?

A. There is heat supplied to it. On the steam mangles, it comes from the boiler room. And this is going all the time. As it goes around, it simply takes it off the other side.

The Master: I see.

A. And finishes the edges.

Q. (By Mr. Lamb): How many men are in the clay department, Mr. Metz, approximately?

A. You mean the whole clay shop or just flat?

Q. Yes, in the first place, the whole clay shop.

A. The whole clay shop? Oh, I don't know: about 125.

* * *

(A blue-print was then marked Exhibit 30.)

Q. (By Mr. Lamb): Which entrance, then would you use, Mr. Metz.

A. This north side, this clock right here (indicating).

Q. Marked "A"?

The Master: Would you go directly into the time clock?

A. No. I would have to come in there where he has his finger.

Mr. Lamb: At the employees' entrance.

A. Right here.

The Master: Which is indicated the employees' entrance?

A. Yes.

The Master: Then you would go along this long aisle until you got to the time clock?

A. Through the dressing room. That is, our dressing room down there, and cloak room, whatever you want to call it.

Mr. Lamb: Where it is marked M, and toilet, cloak room.

A. Yes.

Q. (By Mr. Lamb): Do you deposit your coat there?

A. I do, and my lunch there.

Q. And your lunch pail. Then proceed to the time clock marked A?

A. Yes. Sometimes we sit in there and talk and smoke until it is time to punch in.

Q. I see. Now, where is the clay shop part of it which you work in? • • •

A. I worked all over that department. That is along the lines marked mangles. • • •

Q. (By Mr. Lamb): Did you tell us how many employees are in the clay shop; that is, the entire clay shop?

A. I told you how many men employees in the clay shop.

Q. And that was how many men?

A. About 125. That is just a guess.

Q. Are there women in the clay shop?

A. Yes, there is.

Q. What type of work do they do?

A. Mostly finishing. Well, now, that mostly. They finish, they handle stock, and then there is emptiers, what they call emptiers, inspectors.

Q. And then these 120 men on your shift in the clay shop, what classifications of men employees are there besides jigger men?

A. Well, there is jigger mens, batter-outs and then the fellows that operate the automatic driers, and there is truckers, and fellows that makes the castors. Castors they call them.

Q. After you punched the time clock, then, did you proceed directly to your post in the clay shop?

A. I did.

Q. And was that true of the other employees in the clay shop, too?

Mr. Cooper: Objection. No foundation.

A. As far as I know. • • •

Q. (By Mr. Lamb): How long would it take you to get to your post in your department?

A. Oh, between a minute and two minutes. It all depends on which end of the clay shop I worked.

Q. In other words, some days you would work on one

end of the clay shop and other days you might work on another?

A. Yes; that applies to weeks, too, sometimes it is a week at a time and a month at a time.

The Master: Did you time yourself on that, or is that your estimate?

A. That is just a guess, knowing what time I started to work lots of morning.

Q. (By Mr. Lamb): Did you advise us whether there were different shifts in the clay shop?

A. There was.

Q. Did you work different shifts?

A. I did.

Q. And the time when you work and the shifts you work will be indicated in the time clock cards which have been handed to us by the defendant?

A. They will. • • •

(The time clock cards were thereupon marked Exhibits 31, 31-A to 31-Z, and 31-AA to 31-LL.)

Mr. Lamb: We offer the exhibits.

Mr. Cooper: In the first place, they have not been identified, but assuming that the witness will identify them as being his time clock card, I object to their admission on the ground that they are not relevant. • • •

The Master: I would like to look it over at my leisure, but on the question of the admissibility in evidence, I am quite clear in my mind that these are admissible in evidence. The plaintiffs have a theory of the case. You dispute their theory. But it is one of the things in issue here, and I will overrule the objection. • • •

Q. (By Mr. Lamb): I would like to have you tell us, Mr. Metz, the names of other employees known to you who work in the clay shop and were similarly situated and did similar work to that which you performed?

• • •

SUMMARIZE FROM LINE 21, PAGE 866, THROUGH LINE 4, PAGE 869, as follows:

"Walter Selk, Alfred Erke, Robert Daniels, Carl Schoof, Ray Wiley, Paul Frazo. Joyce Brousseau was a finisher on flat ware. Wells Clay was a bat-

ter-out. Albert Schiappacasse was another jigger man."

Q. Will you tell the Master the approximate time of the day that your shift worked? Was it morning and afternoon, or afternoon and evening or what?

A. Well, all four of them. In the clay shop on flat ware and the cups, they run two shifts. The morning shift would start to work most of the time at a quarter to 6 or 14 minutes to 6, and the afternoon shift would punch in at 12:31 and work until 11 o'clock or 10 o'clock or sometimes quarter to 12. It all depends how bad they needed the ware. And we changed shifts every week. One week we would work days and the next week we would work nights. That is the way we called it.

Q. So, a group usually works in the clay shop, or do you work individually on piece work usually?

A. A crew is considered three people. You have your jigger man and batter-out and finisher. You are independent as far as running your own job from the other jobs, the other mangles.

Q. Have you always worked on piece work, or have there been occasions when you did day rate work?

A. A few occasions; not very many.

Q. And on those few occasions, what type of work did you do when you were getting a day rate?

A. Worked for Herman Miller out on the dock, or out on cars. Unloading cars.

Q. Unloading cars?

A. Yes. I would get a day off and he would ask me if I wanted to work out there, or tell me to go out there.

Q. Did you ever attend the meetings of the employees called by the management?

A. We had meetings every week.

Q. And were you advised to appear at those meetings?

Mr. Nunneley: Same objection we made before, your Honor.

A. I was. • • •

The Master: I didn't rule on the other employee. I

thought while he was here in view of the fact the charges came up and I didn't have much time to think about it, I would get his testimony in on it, but it does seem to me this is outside the scope of the pleadings and if you want to bring it in you should ask for leave to amend the pleadings.

I believe I will make that ruling and stick to it.

Mr. Lamb: I would like to make a proffer of proof.

The Master: All right, go ahead.

Mr. Lamb: If this witness were permitted to testify, he would answer that he and all other employees of the Mount Clemens Pottery Company, including those represented by this plaintiff, were required to, and did, attend a meeting once a week since the effective date of the Wage and Hour Law; and if this witness were permitted to answer he will testify that said meetings lasted from 15 minutes to a half hour each week, and were addressed by foremen or other supervising officials of the Mount Clemens Pottery Company who advised them as to methods to increase their production and efficiency, and so forth.

Further, that these meetings occurred on company property and that the employees were required to, and did, punch their time clock cards out and then attend the meetings during lunch hours, and returned from the meetings, punched their time clocks and proceeded to work.

Q. (By Mr. Lamb): Mr. Metz— • • •

Q. (By Mr. Lamb): Can you advise me whether or not you were ever required to or did, return to the employer's premises and grease or oil molds?

A. I would like to have that read again.

Q. Did you ever return after working hours or after you punched the time clocks, in pursuance to the employer's instructions, and oil or change molds?

A. I have.

Q. Will you advise us the occasion or occasions when that procedure occurred?

A. I couldn't tell you the exact date.

Q. Will you tell us approximately when it occurred and what you did?

A. I would say a year and a half ago is the best I can give you. I don't know. I have done it different times.

Q. I see. What did you do?

The Master: What did you do?

A. Went back in the shop and finished changing molds or finished oiling molds after I punched out the clock.

The Master: Was this in the afternoon after you had punched out?

A. Afternoon, yes.

The Master: Any particular day?

A. Or, sometimes if I was working on the night shift, I might come in early before punching my clock card in and come back and do work and then punch the clock.

The Master: Any particular day of the week when this was done regularly?

A. Well, the molds which used to come through—they have changed that. That isn't always—you used to come in on a Thursday, I think, and then Friday, and they had a regular mold change chart that come out of the office when a certain job was to change molds or something like that, and on oiling we oil every week. We oil the molds every week.

Q. (By Mr. Lamb): Did that occur after you had punched the time clock card?

A. Sometimes, not always.

The Master: How was it determined—in the first place, how did you happen to come back to do this work?

A. They would tell me to, finish up the job to get it ready for the next morning.

The Master: From the foreman?

A. Yes.

Q. (By Mr. Lamb): What is his name?

A. Robert Fittin. • • •

The Master: Was he your foreman throughout the period you worked in this department?

A. Well, not throughout the whole period; Carl Ster-

ner was my foreman for a while; I worked under Joe Cornish.

The Master: Did you do this extra work while you were there all the time when working under the different foremen, or just when Arthur Fittin was foreman?

A. That was a habit ever since I have been working there, up to last, oh, I would say last year that they done that; done that lots of times.

The Master: Now, you say that on some occasions you punch your time clock out and then came back and did the work and other occasions you did this work before you punched your time clock out?

A. That is right, that was to keep my hours down so they didn't run over 40, 42, 44, whatever it happened to be.

The Master: Was that the determining factor?

A. So I could make more money at the same time, so it wouldn't show too much time on my clock card, to keep my rate up.

The Master: How would you know on a given day you were to do this work before punching it out or after?

A. If we weren't done at 2:30, when we were supposed to stop the job and go out, sometimes he would come around and tell us and sometimes we would go and ask him what we should do.

The Master: In other words, if you got done in advance of the time that your shift was supposed to end you would do the work before checking out?

A. Yes.

The Master: And if you weren't done with your regular work until the shift ended, you would go out and punch your clock out and then come back?

A. Sometimes, and sometimes they would let it carry over. If you worked on a double job, all jobs weren't double, if you worked on a double job the guy that worked on the next shift to you would come in and finish up for you otherwise he had to do part of it anyway, if you worked on a double job.

The Court: Well, what I would like to know is how

you knew whether you were supposed to go out, on a particular day how would you know whether you were supposed to go out and punch your time clock out before doing this work, or whether you were supposed to do the work and afterwards punch the time clock out; you say sometimes you did one and sometimes the other. How could you tell which you were supposed to do?

A. Sometimes he would tell us to do it.

The Master: The foreman would tell you on a given day what you were supposed to do?

A. He would just about know how many hours each one of us had in, just about.

The Court: Were there times then when you made up your own mind about it without awaiting instructions from your foreman?

A. Well, I don't know, I don't remember of any. Sometimes we would go and ask and see what we were supposed to do.

Q. (By Mr. Lamb): Can you give us an estimate of the number of times, for instance in the year 1940, that you came back and changed or oiled molds after punching the time clock?

Mr. Cooper: I object to any estimate, your Honor.

A. I couldn't, anyhow.

The Master: Just a minute; you couldn't estimate?

A. I don't think I could, no.

The Master: I will overrule the objection; the answer is that he couldn't estimate. I will ask you how often was it that you oiled and cleaned the mold?

A. We oiled the mold once a week.

The Master: How often did you clean them?

A. Well, you mean change them?

The Master: Or, change them.

A. Well, that depended on the job. Sometimes it might be once a week, sometimes every two weeks, or sometimes you might run a whole set of molds without changing them once; there was no set period of time.

The Master: There was no regularity on that?

A. No.

The Master: But there was a regularity as to the time of oiling them?

A. Yes.

Q. (By Mr. Lamb): Can you advise me as to what arrangement was made relative to down time, or when machines had broken down?

A. On our particular job there wouldn't be no arrangement, you would just sit around until it got fixed, if it took two hours or three hours, whatever it was.

Q. You just sat there?

A. Sat there.

Q. Were you required to go out and punch your time clock while waiting, or did you just sit there?

A. Well, it depended on how close to the noon hour, or something like that, it was. If it was maybe within a half hour of the noon hour and he had an idea how long it was going to take to fix a job, or anything, he would tell us to go out and punch out and come back in, you know, after we ate, or something like that. That didn't happen too often, not on my particular job.

The Master: What was the usual practice then if the down time wasn't at the noon hour?

A. We just stayed right there, right in the shop.

Q. (By Mr. Lamb): Can you advise us what if any deductions were made from your pay for sponges used on the job?

A. Yes, there was; the finisher used the sponges and we paid for them.

Q. You didn't use the sponges in your job?

A. Well, she used them on the job, but I didn't use them, she used them.

The Master: You mean the girl that was working with you?

A. Yes.

The Master: Would use the sponge?

A. Yes.

The Master: Was a deduction made from her pay as well as yours, if you know?

A. No, it all fell on the jigger man. The jigger man paid for the sponges.

Q. (By Mr. Lamb): The jigger man, including yourself, paid for the sponges used by the girls?

A. Yes.

The Master: Your answer is "Yes"?

A. Yes.

The Master: Speak your answer. How much did they charge for these sponges?

A. 30 and 35 cents, I think. I am not too sure about that, somewhere around there; I think that was the price of them. The finisher would go to the foreman and ask for a sponge order and she would take the order, and I don't know whether he put her name down or my name down, she would take it to the store-room and get the sponge; I don't even know if the price was marked on the sponge.

The Master: How many of these sponges would be used in an average week?

A. Well, it all depends on what kind of ware you had; some ware would use more sponges than others. Certain types you would use three sponges a week, and there were some you would only use three a pay or two week period.

Q. (By Mr. Lamb): That is on the computation sheet, your Honor.

The Master: Yes, but I am just trying to get a rough idea.

Q. (By Mr. Lamb): Can you advise me whether any deductions from your pay were made for any other articles used on or about the job?

A. (No response.)

Q. Gloves or anything else?

A. For pails. We had to pay for our own pails that the finisher used to put the water in. We had to pay for them when we bought them.

Q. You mean that you, as the jigger man, had deductions made from your pay for the pails used by the finishers?

A. That is right.

Q. Now, can you tell the Master how much you were charged for those pails?

A. I think it was 27, 28 cents.

Q. And can you tell us how frequently those charges were made or deductions made from your pay?

A. It all depends how long you could hang on to them, if somebody else didn't get them away from you. There is no way of keeping them locked up or anything. We tried to put names on them or put your number on, but they would disappear, use them over on the automatic machine, turn up at the other end of the shop some place.

Q. Can you tell us whether or not you were advised by the management through an invoice or payroll deduction slip or otherwise, of these deductions?

A. No, sir.

The Master: How did you find out about them, then?

A. Well, sponges, why, it simply would tell us once in a while that she got a sponge today or something like that, and when we got the pails, we would have to get an order from the foreman to get a pail, to go to the stock room to get it.

Q. (By Mr. Lamb): Did you ever discuss this with the foreman, the matter of making deductions for sponges, for instance, from your pay check?

A. Oh, we discussed that at the meetings that we would have after we was done work or before we went into work.

The Master: Were these meetings of your department or meetings of the entire plant?

A. No, of the department; department meetings.

Q. (By Mr. Lamb): Did you ever make known your objection to these deductions from your pay check, to the foreman?

A. Well, we all didn't like it. I imagine I made it known. They finally stopped making the jigger man pay for it and made the finisher pay for it. I don't know why they did it.

Q. Can you advise us about what time that change occurred, what year?

A. I think it was around January in 1941.

Q. January, 1941?

A. Yes.

Q. Can you advise us of any other deductions made from a jiggerman's pay check for equipment or property used on or about the job of anyone?

A. Well, they used to deduct so much, I don't know how much, off of our wages for bisque grinding, something that they did in another department.

Q. They would deduct from your wages?

A. That is right.

Q. In the clay shop, as a jigger man?

A. That is right.

Q. The cost of bisque—

A. (Interrupting): Bisque grinding.

Q. (Continuing):—grinding, which was done in a different department?

A. That is right.

Q. Can you advise us of the department the bisque grinding was done in?

A. It was done down around the dipping department some place, brushing department or some place down in there.

The Master: Pardon me, let me interrupt. How were you paid? What was the method by which you were paid?

A. It was piece-work; so much per hundred dozen.

The Master: Per hundred dozen? What?

A. Pieces.

Q. (By Mr. Lamb): Of what?

A. Well, whatever I was doing. Maybe 5-inch fruits, or saucers, 6-inch fruits, 7-inch plates, 9-inch plates, salads. It all depends what job we was on.

The Master: Who kept track of what job you were on?

A. The finisher kept track and she put it up on the chart in the office. I don't know when they started putting the tickets in the truck, that we had a duplicate, each truck had so many boards. Small ware was 20 boards to the truck and large ware or center ware was 15 boards to the truck. And we got paid according to the number of trucks that was loaded on the bisque belt for a two-week period.

Q. (By Mr. Lamb): Are you able to tell us how much was deducted from your pay check for this bisque grinding that occurred in other departments?

A. Well, I have heard—I couldn't state exactly; I asked one time, or a couple times I went—if I would be short on my pay, what I figured up per hundred dozen, if I was too short, I would ask what they charged me for, and if I remember right, it was 70 cents one pay. I don't know. I couldn't say for sure.

The Master: Did you figure up your pay every week, what you thought you were entitled to?

A. Just about every week. Not every week; every two weeks, every pay.

The Master: Did you keep any records of how you computed it?

A. I used to. I used to keep it day by day.

Q. (By Mr. Lamb): That appears on the computation sheets of the company?

A. It should. Then there was another charge.

The Master: What was that?

A. For inspection. If they held up a truck of ware. And there was a charge for crooked ware. And we would have to go down to the office and find the cost of that if we wanted to know. It wasn't brought to us or wasn't shown on our pay check voucher.

The Master: Was that a deduction that was made every week, or every two weeks period when you were paid?

A. Well, crooked ware was, if you worked on any type of ware that went crooked, it may or may not be your fault if the ware was crooked, but I think they deducted fifteen minutes a day for crooked ware; if you worked on a job that the ware would go crooked as it was drying, or something like that.

The Master: Was that a uniform deduction, the same amount every week, or did that depend on how much crooked ware there was?

A. Well, they had to look it over and they deducted that at once whether there was any crooked on it, or whether there was a whole lot. If they picked out any crooked you had to replace that ware they put on there.

The Master: Would they have to scrap the crooked pieces? Do you know what they did with the crooked pieces?

A. I think they throwed them away.

The Master: Then you were paid so much per hundred pieces, but if some of them turned out to be crooked and unusable, they deducted those pieces and you were only paid on the good ones, is that the idea?

A. We replaced the ones that they took off, and the same went for finishing. A small wearing, 5-inch fruits, would have 15 and five or six dozen on a board, and 24 boards to a truck. If they found—it all depends in what humor the boss is in. If they found seven or eight pieces of bad ware out of a board they would hold the trucker.

The Master: What caused the ware to become crooked?

A. On crooked ware maybe it would be the clay, the texture, or something about that, and it may be caused by the molds.

The Master: Would it depend on the skill of the operator?

A. Some of it sometimes, and sometimes it was on the jigger itself, the machine that you worked on, or the two. • • •

February 24, 1942

JOHN ALVIN METZ, was thereupon recalled as a witness, and being previously duly sworn, testified further as follows:

Direct Examination (Continued)

Mr. Cooper: With reference to the testimony Mr. Metz gave the last part day, if your Honor please, I desire to present at this time two motions to strike. The first one I can state very briefly. I move to strike out of this witness' testimony, because it has not been connected up with the claim of any of the plaintiffs in the case. The second motion is that at least that part of the testimony should be stricken having to do with the general topic of deductions from piece workers' earnings. • • •

The Master: I will overrule that motion and your other motion to strike pertaining to these deductions from pay. I have been wondering a little bit just what the plaintiff's theory is on that, but the matter is in issue under the pleadings. It is part of the issues referred to me. I am going to take the testimony on it, and let that be argued afterwards as to whether it constitutes a violation of the Wage and Hour Act in any way. • • •

Cross Examination

By Mr. Nunneley:

Q. Mr. Metz, how long did you say you have worked at the plant, the pottery?

A. It is 10 years last December 26th.

Q. 10 years last December 26th?

A. I am pretty sure it was 10 years December 26th. The day after Christmas.

Q. During that period what has been your employment? What has been your job? Have you been a jigger man all that time?

A. No. I started out there as baller-out on cups.

Q. You were what?

A. Baller-out on cups.

Q. How long were you at that?

A. About a year and a half.

Q. Then what did you do?

A. Then I was transferred over on batting out flat ware.

Q. Batting out flat ware. You have been at that how long?

A. Well, I don't know. I have been jiggering a little bit better than five years. I don't know for sure.

Q. Little bit better than five years. And, during that period some time in there did you become a jigger man?

A. Yes.

Q. When did you get to be a jigger man?

A. Well, I could get my day out when I first started to jigger.

Q. When did you get the job of being a jigger man? That is a different job than batting out?

A. That is better than five years ago.

Q. That is better than five years ago?

A. Yes.

Q. And the jigger man, since that time is that all you have done, is worked as a jigger man?

A. Well, about the last year we had what they call a split job; two jigger men worked together. • • •

Q. You live over towards Utica?

A. Yes.

Q. How far was that from the plant?

A. I think Utica is nine miles from Mt. Clemens.

Q. How far is it from your home?

A. I live about three miles west of Utica. About twelve and a half miles drive.

Q. You travel back and forth by automobile?
A. That is right.
Q. Alone?
A. No; not all the time.
Q. Who traveled with you?
A. There were times I had three or four or five girls ride with me.
Q. Workers in the plant?
A. That is right.
Q. Who rode with you?

SUMMARIZE FROM LINE 5, PAGE 905 to LINE 25, PAGE 905, AS FOLLOWS:

"Lucille Sabo, Lucille Pretzer. The Savarino girls also rode with me. There were three of them. There was another girl; I can't remember her name now."

Q. They were people who lived out that way, too?
A. That is right.
Q. They lived on your street?
A. Two of them lived on my street and the other two I went out of my road to pick them up.
Q. During how long a period did they ride with you?
A. Oh, I don't know. The last two riding with me, they were riding with me, I guess, since the other strike, the other walk-out, up until this strike.
Q. Which two is that?
A. The two Lucilles there, Pretzer and Sabo.
Q. Did they ride with you before the first walk-out or strike?
A. Well, Lucille Sabo rode about a week or two before the other strike, the other walk-out. I think so; I don't know.
Q. Who rode with you before that strike?
A. There is another girl there. I can't tell you her name right now.
Q. These people you have named, did any of them ride with you before the first strike?

A. Yes, the Savarino girls did.

Q. How long a period did they ride with you before the first strike?

A. Oh, it was off and on. Maybe a couple weeks it would be, then they wouldn't ride for a month or two, then a couple more times.

Q. Did you always drive, or did you take turns with someone else?

A. I always drove.

Q. You drove every day?

A. When my car was in running condition.

Q. And where did they work in the plant?

A. I guess they worked on the cup jobs. • • •

Q. They did not work with you?

A. No.

Q. Were they in the same department?

A. Well, they were in the same department, figuring the clay shop the whole department, that is, cups and flat ware and cast ware. That was all in the clay shop.

Q. Now, on your job as a jigger man or a batter-out, either, you always worked in groups of three, is that right?

A. That is right. • • •

Q. Batter-out, jigger man and finisher. And who did you work with during that period? Who was in your crew?

A. During what period?

Q. During the period of this suit, from 1938 up till the time the suit was started.

A. Up until the time the suit was started?

Q. The time of the first strike, yes.

SUMMARIZE LINE 11, PAGE 908, THROUGH LINE 9, PAGE 911, AS FOLLOWS:

"Robert Daniels. I worked with him for about five months in the summer of 1940, I guess. Before that I worked a couple of months with Joe Versure. I worked with Walter Selk. I think I started to

work with him in December, 1940, and I was still working with him when the strike was called in April, 1941. I worked with Marvin Goldenbogen in the fall or early winter of 1940. I worked with Art Dagno for about a year, probably back in 1939."

• • •

A. That is all I can recall.

Q. Now, the same time while you were doing all this work you had some finishers working with you, didn't you?

A. Yes.

Q. Who were they?

SUMMARIZE FROM LINE 22, PAGE 913, TO LINE 25, PAGE 915, AS FOLLOWS:

"Eleanor Bahorski was the last girl I worked with in there. She was working with me before the first strike. She worked in my group about a year. At various times Jean Tewksbury worked in our group. Maude Raleigh and Martha Raleigh worked in our group. Three or four different periods in 1939 and 1940. That is all I can remember now."

Q. That is all you can remember. Now, can you tell us who your crew was right at the time of the first strike?

A. Wallie Selk, and myself, and I don't know if Eleanor was working then with us or Jean Tewksbury, or Martha. I can't tell you the finisher's name for sure. • • •

Q. (By Mr. Nunneley, continuing) Could you tell us who your entire crew was during any period or any of the last year prior to the strike for one year, who was your entire crew, the three of them?

A. This last year? I couldn't name three because I have had more than that.

The Master: You mean at any given time?

Mr. Nunneley: Give us at any given time, any week.

Q. (By Mr. Nunneley, continuing) Could you tell us who your three were, starting with the first strike and

any week before that? Could you give us any week where you can tell us who your crew was?

The Master: Of course, you don't expect him to give you the dates on that, do you?

Mr. Nunneley: I am trying to get a date, sure.

A. I couldn't give you that, because it is too hard to remember, that is, the date.

The Master: I don't know how he could recall that, to remember dates like that.

A. A year ago, that is—

Q. (By Mr. Nunneley) Then there is no way you can tell the court any time who your crew was so that it can be checked up to see who it was?

A. Not that long ago, no, because a day at a time we may have another finisher and maybe another batter out.

* * *

The Master: Do you know who your regular finisher was supposed to be at that particular time, regardless of whether she was on the job that particular week?

A. I think it was Martha Raleigh.

Q. (By Mr. Nunneley, continuing) How long was she your regular finisher, let us put it that way?

A. Oh, she has worked on these three or four different times, but how long a time I couldn't tell you that.

Q. How long had she been just prior to the first strike? How long had she been your regular finisher?

A. Oh, I would say months. Just a guess, because I don't know for sure.

Q. Well, who else did you have for a regular finisher prior to having Martha Raleigh?

A. I have had Eleanor Bahorski; I had Jean Tewksbury down there in No. 14 when I started to work with Wally. I am pretty sure about that. * * *

Q. Give us your best judgment of the portion of the time—

A. (Interrupting) I couldn't give you no portion of the time, because a double job may run a week and then they would stop and run a single for four weeks.

Q. You know most of the time whether you were working on a double job or a single one. You can tell us that without trying to dodge it.

Mr. Goerlich: He isn't trying to dodge.

A. I am not trying to dodge.

Mr. Nunneley: There isn't any doubt he is trying to dodge.

Mr. Goerlich: Why should he want to dodge it?

Mr. Nunneley: Because he doesn't want to be checked up on it, if you want to know the reason.

The Master: The witness has made some definite statements—

Mr. Goerlich: (Interposing) Why should he want to dodge? The company wants to dodge something.

The Master: During the last four years were you working the majority of the time with a double crew or the majority of the time with a single crew, or was it about half and half?

A. About half and half, as far as I can recall.

Mr. Nunneley: Well, he has answered to you, but he wouldn't answer it to me.

The Master: I think he would have answered if you would have asked it that way.

A. You wanted the time and date. I can't give you that.

Q. (By Mr. Nunneley) I didn't ask you for the time and date. At the time of the first strike, what were you working on, double or single?

A. I am quite sure it was a single job, No. 38.

Q. No. 38, single job?

A. Yes, six inch plain fruits.

Q. Can you tell us any time you were working on a double job, give us any date at all?

A. No. • • •

Q. In other words, what we are speaking of as a double crew, that was a two-shift job?

A. That was a two-shift job. • • •

Q. And work until some time in the afternoon?

A. Yes.

Q. And then the other fellow would take over, is that right?

A. That is right.

Q. And he would take over when you quit in the afternoon?

A. Well, we was supposed to quit at 2:30, stop the job.

Q. Yes.

A. And, oh, clean out the jigger box a little bit, maybe clean off the tools most of the time, clean off the ring, clean the bench out. After we got done, by that time—

Q. (Interposing) He would be there?

A. He would be ready.

Q. What time was he supposed to be there, if you know?

A. 2:31.

Q. 2:31?

A. Was what time they punched in.

Q. The time they punched in. In other words, he was supposed to be there to start when you left off?

A. That is right.

Q. And the operation was continuous; that is right, isn't it?

A. Well, after we done our cleaning up, what we had to do, yes, then he would start to work.

The Master: What time did you say you quit?

A. We was supposed to run the job until 2:30.

Q. (By Mr. Nunneley) You would run the job until 2:30?

A. And he may get in there at 25 minutes to.

The Master: The job isn't going during that five minutes interval?

A. No, the mangle wouldn't be running. There is a certain period of shut-down there.

Q. (By Mr. Nunneley) There would be a shut-down. How long would the shut-down be, normally?

A. Well, that depends on the individuals and on the days and on the type of job that they was on. A big ware job, they had to scrape the block. Tea ware job, it wasn't down quite so long as the big ware job would be, I don't think, as far as I can see.

Q. Didn't he go right on with the same work that you were doing?

A. That is right.

Q. How did you get paid?

A. Piece-work.

Q. I mean, did you get paid in groups of three or groups of six at a time?

A. No, individually. There is a rate set for jigger man and a rate set for batter out and finisher.

Q. But the pieces, were they counted by shifts or counted by the two shifts?

A. They was counted by the shift.

Q. By each shift?

A. Yes.

Q. In other words, your shift, when you quit; who kept track of the pieces, who made the count?

A. Well, the finisher turned in the count to the office, but we didn't get paid on that.

Q. Well, the finisher turned in the count to the office?

A. That is right.

Q. And she was one of your group?

A. That is right.

Q. Working right with you?

A. Yes.

Q. And she turned in how many dozen, or whatever it was you claim that you made that day?

A. Th t is right.

Q. And that went to the office, is that right?

A. Went to the clay shop office.

Q. And then your ware was inspected, was it?

A. Well, they called it—yes, that would be inspection.

Q. It was inspected?

A. The foreman done it.

Q. The foreman checked it over?

A. That is right.

Q. And you were paid on the basis of that count, weren't you, less any deductions that might have been made as you have claimed here?

A. Providing you were—yes, that is right. • • •

The Master; Let us get down to the meat of the testimony.

Let me ask this, witness, how many inspectors were there inspecting this crooked ware?

A. Well, our foreman—oh, the crooked ware? They had one girl and they inspected the ware, that is for crooked. That was her job of going from truck to truck that would be apt to go crooked, and she would look the ware over.

The Master: You say there was a 15-minute deduction from your pay for the inspection. Do you know whether that money was paid over to this girl?

A. That was supposed to be her pay, to pay her.

The Master. I see. Go ahead.

Q. (By Mr. Nunneley, continuing) Let's see, during all the time that you were there, during all the time that you worked as jigger man, there were certain inspection charges that were customarily and always taken, weren't there, from your pay?

A. As far as I would know there was always charges for inspection.

Q. There were charges taken, that is right. You understood that during all the time you were working as a jigger man, that those charges were going to be taken, didn't you?

A. Yes.

Q. So that, as a matter of fact, those things were all part of the job under which you were working; that is true, isn't it?

A. Yes, as far as inspection was concerned.

Q. As far as inspection was concerned. That method of inspection didn't take place on all ware, did it?

A. Not for crooked. * * *

Q. And that has been done, and that was the practice during all the time you worked at that business?

A. As far as I know.

Q. And that is the way you were paid during all the time you worked there?

A. That is right.

Q. And the deduction was a customary part of the business, isn't it, that inspection deduction?

A. That is right. * * *

Q. Yes. Well, then, how much was taken out of your pay?

A. I don't know, I never knew that.

Q. Did you ever make any inquiry?

A. I couldn't say as I did. If I worked on the crooked ware I made different times—I would be short in my pay that I would want to know what the inspection charges was, and all the charges they had against me.

Q. You made the inquiries about that?

A. Yes, I have.

Q. And who did you inquire from?

A. I generally asked my foreman, whoever he happened to be.

Q. He explained it to you, did he?

A. He would call up the office and get the deductions and bring them back to me.

Q. And they would tell you how much the deductions were, wouldn't they?

A. For this and that and everything else.

Q. Can you tell us on any occasion how much the deduction was?

A. I couldn't for crooked, no, because I don't remember anytime that I have asked for crooked ware.

Q. You don't remember any time. On a good many occasions you have asked about your pay?

A. That is right.

Q. And if there was any error, was it corrected; did you ever have an error corrected?

A. Well, I always found out I was always wrong.

Q. They always explained it to you, didn't they, what there was?

A. Well, they were always right.

Q. They were always right?

A. That is right.

Q. Did they ever correct an error for you in your pay?

A. Not for me that I remember of.

Q. Not for you. Never found one that you thought that they thought was wrong, is that right?

A. I guess not.

Q. And you kept right on working just the same?

A. Sure.

Q. Until last spring. And you didn't get fired for inquiring, did you?

A. No. • • •

Q. (By Mr. Nunneley) Now, your deductions for this ware, you say you don't know whose pay the fifteen minutes was figured on?

A. No, I don't; I always figured it was figured on mine.

• • •

Q. Now, this other crew, when we got side-tracked on this crooked business, we started to talk about another crew. Do you know who this other crew was that worked right following you; we will say for the three months before the first strike?

A. No, I couldn't name the men and the girl that worked on that opposite shift.

Q. Couldn't name the man or any of them that followed you right after?

A. No, I don't remember who it was now.

Q. Couldn't name the jigger man that followed you right on the same job?

A. No, not to be sure, I couldn't.

Q. Well, I know, to be sure; you used to see him every day, didn't you?

A. Just about every day.

Q. And you want to tell us you don't remember who he was?

A. That is better than a year ago.

Q. About a year ago?

A. And they may change him around like they did some of the other fellows.

Q. I didn't ask about that, I asked you who that fellow was that worked there normally, that followed you?

A. I think it was Bill—I don't know his last name; I know it but I can't think of it.

Q. Can't think of it, all right. Who was the batter-out that might be working with him?

A. I couldn't tell you that, unless it was Bill Gass, he worked there, worked with this fellow at times, and at that certain time I don't know whether he did or not.

Q. Bill what?

A. Gass, William Gass; Bill Hertenia was the other one—no, wait a minute, that is not it. Yes, Hertenia, that is it.

Q. He was a jigger man?

A. I am pretty sure; you know I don't know for sure.

Q. And Bill Gass was the batter-out. And who was the finisher?

A. I don't know.

Q. You don't know the finisher?

A. No.

Q. Can you remember any others during the entire four-year period, that followed you?

A. Jack Bergland worked on an opposite shift from me one time.

Q. Bergland?

A. Bergland.

Q. Yes.

A. I don't remember who was batting out for him.

Q. You can't remember any of the finishers, or can you?

A. Yes, at the time that he worked with me, I think

his wife was finishing—that is, worked on the opposite shift from me.

Q. Do you remember any others?

A. No.

Q. Now, that double crew business, one week you took the early shift, didn't you?

A. That is right, morning shift. Day shift, we call it.

Q. The morning shift. Then the next week you would take the afternoon shift?

A. Night shift, we would call it.

Q. Night shift?

A. Day and night shift.

Q. Day and night shift. And you went to work—normally what time did you go to work on the morning shift?

A. You are supposed to punch in at fourteen minutes to six.

Q. I asked you what itme you went to work?

A. Well, it all depends what you mean by "work."

Q. I mean working at the job.

The Master: What time did he start production work?

Mr. Nunneley: Yes, working at the job.

A. Well, that wasn't always the same. Some mornings on the way in to work we would pick up boards to take back on to the job, if they was short of boards, and other mornings we would go to the tool room, take them over to the job. We might have to set a tool, get some boards, change a finisher's water, go get it if there was none there, turn on the heat. There was no hard and fast rules what we usually done.

Mr. Goerlich: You mean before you started to jigger?

A. Yes, before I turned out actual production.

Q. (By Mr. Nunneley) Before you turned out actual production?

A. That is right.

Q. You checked in at what time, did you say?

A. Supposed to be 14 minutes to.

Q. Fourteen minutes to seven?

A. To six.

The Master: When you said it was supposed to be fourteen minutes to six, who set that time?

A. The foreman.

Q. The foreman told you you should be there?

A. That is the time he designated for us to punch in.

Q. That was the time the clock was free for you to punch in, wasn't it?

A. That is the time the foreman told us to punch in 14 minutes to six.

Q. Did you do that every day?

A. Not at 14 minutes to, no.

Q. What is the name of the foreman that told you you had to punch in?

A. Robert Fitten.

Q. Who?

A. Robert Fitten.

Q. And that 14 minutes, that 14 minutes to, was a "supposed to" business, wasn't it?

A. What do you mean?

Q. "Supposed to," wasn't it?

A. What was the question?

Q. That 14 minutes, you were supposed to punch in, is that right?

Mr. Goerlich: Tell him what you meant.

A. That is the way we was told to come in, at 14 minutes to.

Q. (By Mr. Nunneley) That is the time you were told to come in?

A. That is right.

Q. But you didn't do it as a general rule, did you?

A. Not at exactly 14 minutes to, no. Maybe 13 minutes to, 12 minutes to, or 11 minutes to.

The Master: Did you sometimes get in before 14 minutes to?

A. It was a very rare occasion, because if we did we would know the night before, he would tell us.

Q. (By Mr. Nunneley) In other words, you couldn't

get by the clock, or normally weren't supposed to get by the clock?

A. We could have punched in, but we wasn't supposed to go in before that. The clock was open.

Q. That is the time that you were permitted to go in there?

A. That is right, 14 minutes to.

Q. And you were not permitted to go in there more than 14 minutes before?

A. Not unless we was told the night before. • • •

Q. (By Mr. Nunneley) You understood, put it that way, that you could not go in before 14 minutes to, didn't you?

A. Unless we were told the night before.

Q. Unless you were told the night before?

A. That is right.

Q. And you could go in at 14 minutes to?

A. We was told to go in at 14 minutes to.

Q. And you could go in at 11 minutes to?

A. If there was enough there at the clock, we would have to wait until 11 minutes to. We couldn't go ahead of the other crowd.

Q. And you could go in at five minutes to?

A. Yes. We generally got hell when we got back on the job when we did.

Q. You would be a little behind if you got in at five minutes to, wouldn't you? You would be a little late. • • •

A. If you want to figure it that way, sure, we would be late according to what we were supposed to go in.

Q. (By Mr. Nunneley) If you didn't go by the clock until five minutes to, you wouldn't be over on the job at the hour, would you, ready to work?

A. That all depended on what we had to do on the way in. • • •

Q. (By Mr. Nunneley) On an ordinary day you went to work, we will say, you punched the clock at five minutes to six. What was the first thing you did after you punched the clock?

A. Put my card in the rack.

Q. Put your card in the rack. Then what?

A. Took off for the job; started to walk to the job.

Q. Started to walk to the job. That is about how far?

A. Well, that all depended on what job you were working on. The clay shop is long, and, I would say an estimate would be 300, 350, 400 feet, somewhere around there, to start in the clay shop. * * *

Q. The first part of the clay shop. Where did you work?

A. I worked all over the clay shop.

Q. You worked all over the clay shop?

A. Yes.

Q. If you were working—did you ever work back by the automatic drier?

A. I worked back there.

The Master: You even worked at these mangles at the extreme left of the map?

A. That is right.

Q. (By Mr. Nunneley) How far would you say it would be back to those?

A. Maybe six or eight hundred feet, I suppose.

Q. Six or eight hundred feet back there, isn't it?

A. That is right.

Q. Do you know how long the whole place is?

A. I do not.

Q. You don't know that. So that your first movement after punching in, as we suggested before, at five minutes to would be to take the walk down to the shop?

A. That is right. If I worked back there I would go down this way.

Q. If you worked back there you would go a way around this other way?

A. If I had a tool or something to pick up. It all depends. * * *

Q. (By Mr. Nunneley) Where would you get the tool?

A. Right down here (indicating), somewhere around in there. That is where it was situated, the tool shop.

Q. Clear away in the back?

A. Clear over here.

Q. From there you would go to wherever you were working?

A. That is right.

Q. If you had that kind of a walk, how long would it take you to walk that six or eight hundred feet?

A. Oh, two or three minutes. Somewhere around that.

Q. Two or three minutes. Then, when you got down there, what did you do? You got down to where you were going to work; what did you do then normally?

A. You mean, to the job?

Q. Yes.

A. Well, you can go out looking for boards, if they happened to be short of boards, or could set a tool or set a spray gun; had to give the finisher clean water; had to turn on the heat.

Q. Yes. How long would all those times take you?

A. If you had to do all of them in one morning, it would take you quite a while, but that didn't always hold true on one morning.

Q. All right.

The Master: Who assigned the different jobs to you? Did the foreman tell you to do them, or did you just sort of—

A. (Interrupting) That was part of your job, I guess, as far as I know.

The Master: On a particular morning that you came there, how would you know whether you were supposed to turn on the heat?

A. You had to have your heat.

The Master: Did each man turn on—

A. (Interrupting) His own heat.

The Master: (Continuing) —his own heat?

A. Individually, yes.

The Master: So that everybody had to do that?

A. Yes.

Q. (By Mr. Nunneley) Everybody had their own heat?

A. Yes, in the mangle.
Q. In his mangle?
A. Yes.
Q. You turn on the heat in your mangle?
A. Yes.
Q. What did you have to do to turn on the heat?
A. Well, steam mangles, the finisher journeyman took care of.
Q. So you didn't have to turn on the steam mangles?
A. And on hot air mangles, you just had a lever to back into the far end of the mangle, put it down so many notches, and turn it on.

The Master: Let me ask you this; all of this preliminary work of getting boards, and turning on the heat and light, and so forth, was that all directed at the particular production job you were working on, or would you carry boards for the whole department?

A. No. Just my job.

The Master: All getting ready for your particular job?

A. If the trucker didn't leave boards there, or didn't leave water, we would have to get our own water or boards, and maybe the truck, we would have to change a tool or something like that, go and get a tool and set it up before we could start the jigger.

The Master: What would you say was the average amount of time it took you to do that work? I know the amount of work you had to do would vary from day to day, but how long would that take?

A. Well, you see there would be two of us doing it, the batter-out and jigger man both, maybe give the finisher water while I was turning on the heat and getting the jigger ready, oh, actual time when we got to the job would be two or three minutes, unless you had to set a tool; if you had to set a tool it took a little bit longer.

Q. (By Mr. Nunneley) It would be at the most, that kind of thing didn't take over a couple of minutes or three minutes?

A. I don't think it did.

Q. On a normal morning when you went back there to get your tool ready and ready to start, a couple or three minutes was all the work that was necessary?

A. About.

The Master: Supposing you punched in at 14 minutes to at the time clock, how long would it take to get down to the department, on an average, the clay shop?

A. Well, it depended on where you worked in the clay shop, it was quite long there.

The Master: Supposing you were working in this first group of mangles (indicating) which you indicated you thought it was 300 to 400 feet from the time clock, how long would it take you?

A. Oh, a minute or 2 minutes, something like that.

The Master: And then it would take you two or three minutes in addition to that on an average to do these preliminary jobs before you could start in on production work?

A. That is right.

The Master: One or two plus two to three would be about four minutes getting from the time clock to your job and doing this preliminary work. If you got to the time clock at 14 minutes to, that would bring it down to 10 minutes to, then what would you do when you had the preliminary work done at ten minutes to the hour?

A. We would generally start to work if the whole crew was there and the clay was on the bench.

The Master: Supposing the whole crew wasn't there?

A. We would have to wait around until he brought us somebody. He generally checked up, he checked up around, oh, I don't know, not any later than five minutes to 6:00 he generally checked up to see if everybody was there.

The Master: Who did the checking?

A. The foreman. * * *

The Master: You have heard some of these other witnesses testify as to the method they used in passing a time clock and they indicated that generally a whole department would pass the time clock as a unit?

A. That is right.

The Master: Was that the method you followed?

A. Well, not the whole clay shop, or not even, let's see, all the flat ware, most all the flat ware would come in at that time.

The Master: How many were in that group?

A. Oh, I think before this other strike they run 14 hand jobs on our shift, that would be 28 men and—

The Master: 14 girls?

A. 14 girls.

The Master: 42?

A. Besides the flat ware automatic, the girls came in on their—oh, there was 12 or 15 girls came in on that.

The Master: That would be up near 60 that would come in at once as a unit, is that the idea?

A. Between 50 and 60.

The Master: How long would you estimate it would take that group to pass the time clock, if the first one punched at 14 minutes to?

A. I don't know, three or four minutes, maybe.

The Master: Three or four minutes?

A. Yes.

The Master: Then if the first person started at 14 minutes to, the last one passed at 11 or 10 minutes to?

A. It could be. Sometimes certain parts of the cups would come in at the same time we did. There was no certain rule as to what time the different departments started. That is, whether they all started together or started separately. Flat ware and some of the cups came in at 14 minutes to six, and I think some of the cup girls came in at 6:01, the cast ware came in at 6:31, I think; we all passed the time clocks, divided up in the departments.

The Master: Did you start production work just as soon as your crew was all assembled and the preliminary work was done?

A. That is right.

The Master: Or did you wait for other crews?

A. No, our job was individual of the others, providing we had the clay and stuff like that to go with, and nothing the matter with the job.

The Master: Normally your entire crew wouldn't get past the time clock at exactly 14 minutes to?

A. They couldn't punch in at exactly 14 minutes to.

The Master: They would be in by 10 minutes to, according to your testimony.

A. Yes.

The Master: And then it would take about four minutes to get over to the particular place you were working, if you were working at the nearest place to the clock, and to do these preliminary jobs?

A. Three or four minutes.

The Master: So it would be about six or seven minutes to by the time you would be ready to go to work on the production job?

A. Yes.

The Master: I see.

Q. (By Mr. Nunneley): That is the best you could figure, would be six or seven minutes to go to work, isn't it?

A. That would be a pretty close guess.

Q. I say, that is the best you could figure, that is right, isn't it?

A. Well, it would depend a whole lot on the individuals and on their jobs.

Q. We are talking about you, the Master has asked you if it took six or seven minutes to get there, is that right?

A. Six or seven minutes to get there; he didn't say that.

Q. To get there and to get ready to go to work?

The Master: I was figuring the other way in figuring the amount of time before six that he would normally be ready to start production work.

Q. (By Mr. Nunneley) All right, and the best you could get in ahead of time would be six or seven minutes, is that it?

Mr. Goerlich: What are you talking about?

Mr. Nunneley: Just what the Master was talking about.

The Master: You mean the earliest he could hope to start would be six or seven minutes to?

Mr. Nunneley: That is right.

The Master: When you say "that is the best you could do," that might mean that is the best estimate he could make?

A. He allowed me four minutes to get down here and get to work, and if I punched in at 14 minutes to I would be starting at 10 to six.

Q. (By Mr. Nunneley) Providing the rest of the people were there?

A. Yes.

Q. The rest of your crew were there, and provided the clay was there?

A. That is right.

Q. And what else had to be there?

A. Well, there was nothing else that I can remember now.

Q. What was the answer?

A. I say, there is nothing else that I can remember now that had to be there.

Q. There were people who started to work earlier than you did, whose job it was to get the clay there?

A. That is right.

Q. So as to have it there by starting time; that is right, isn't it?

A. That is right.

Q. Now, besides walking down there and doing the things that you have mentioned, what did you have to do to get yourself ready to go to work? Or what did you do?

A. Took off my shirt and put on an apron.

Mr. Goerlich: You mean after or before he punched the time clock?

Mr. Nunneley: After he punched the time clock.

A. Took off my shirt and put on an apron.

Q. (By Mr. Nunneley) Generally worked stripped down to the waist?

A. That is right. I generally had my shirt off by the time I got there.

Q. Anyway, to get ready for work, you took your shirt off, worked stripped to the waist?

A. Yes, underwear shirt on underneath, apron.

Q. And you put on an apron?

A. That is right.

Q. So you did those things along the way somewhere?

A. No, I didn't say that. I said I took off my shirt along the way.

Q. Where was the apron kept?

A. Right on the job.

Q. Did you know every day where you were going to work the next day?

A. Unless we were working extra, we did.

Q. So you would go down there, take your shirt off somewhere along the way, hang it up somewhere, I suppose, put your apron on; is that right?

A. I would have my shirt unbuttoned most of the time by the time I got to the job, and it is no matter to slide out of your shirt and slip your apron over your neck.

• • •

Q. (By Mr. Nunneley) Now, was there any object in your going to work ahead of time?

A. I don't know as I went to work ahead of time.

Q. You don't know if you went to work ahead of time?

A. Supposed to punch in at 14 minutes to. I suppose when I got in there, I supposed I had to go to work as soon as I got in there.

Q. You suppose so?

A. Well, I don't think they would like it if they caught me standing around, not producing.

Q. Of course, they were never paying you for not working?

A. No, I never got paid for nothing I didn't do there.

Q. Of course, if you did work a minute or two, you would prdouce some ware and get paid for it, wouldn't you?

A. As far as I know, yes.

Q. So it was to your interest to be there and be on the job and ready to go, as well as the company's, wasn't it?

A. I suppose it made some difference in our rates.

• • •

Q. Do you recall of a cut in your rate during that ten-year period?

A. Well, I can recall one for small ware, tea ware.

Q. It was cut, was it?

A. 10 per cent.

Q. 10 per cent cut?

A. Yes.

Q. And when was that?

A. Well, I don't know; two or three years ago, four or five, I couldn't tell you the exact date.

Q. As a matter of fact, during the last three years you have had several raises, haven't you?

A. That is what they told us it was, if we could figure them up.

Q. From time to time you have been earning more money for the same amount of work you did, haven't you?

A. That is right. 2 cents a hundred dozen, or something.

• • •

Q. How much time did you say it took you to take off this shirt we were discussing, and put on your apron?

A. Oh, I don't know, 15, 30 seconds maybe. I didn't ever time myself taking it off and putting the apron on.

Q. As a matter of fact, you never timed yourself going back to work, either, did you?

A. Oh, yes. I generally had a clock on the job.

Q. You generally had a clock on the job?

A. That is right.

Q. Who had the clock, you?

A. Either me or the batter-out or whoever I happened to be working with. Maybe the finisher had it.

Q. So you timed yourself going from the time clock back to the place where you were working, did you?

A. No, not from the time clock back to the place where

I was working. From the time I started to work, lots of times look up at the clock, see what time I was working, five, six minutes to, sometimes after six o'clock.

Q. Sometimes after six o'clock?

A. Yes. • • •

Q. (By Mr. Nunneley) So sometimes you didn't get started until after six?

A. That is right.

Q. And sometimes you say you got started a little before six?

A. Sure.

Q. And, of course, if you got started after six, you didn't give anybody any credit for that, did you?

A. No, it generally wasn't my fault.

Q. It generally wasn't your fault?

The Master: How did it happen sometimes you wouldn't start production work until after six? What would cause that?

A. Maybe we would have a tool to set, that we was having trouble setting it. Maybe we would have to set it three or four times before we would get the right set to it. And if one of them happened to be late, or something, maybe didn't punch in for three or four minutes before six, we had to wait for them.

The Master: You couldn't start at all until the entire crew was there?

A. No. We was supposed to wait—we had to wait until the entire crew was there.

The Master: If somebody was sick that morning—

A. (Interrupting): Either sick or maybe didn't get up with the clock.

The Master: Would the foreman assign other workers to your crew?

A. Sometimes if he had another extra he would put a girl, as soon as he came by the job, he would put a girl on there, and if the other one didn't show up there she would stay there all day, and if the regular finisher showed up he would put this other girl some other place.

Q. (By Mr. Nunneley) So that if somebody in the

crew didn't happen to check in until three or four minutes to, then you couldn't start, could you?

A. That is right, unless he put somebody else on the job from a different place for our place until they got there.

Q. This shutdown between shifts that you talked about a few minutes ago, that would take—that was how long a period?

A. Well, some jobs—one time there we was ordered to keep the job running until the other crew was ready to take over so we got production.

Q. So, there was a time that you kept running until the other crew was ready to take over?

A. That is right. They changed their orders lots of times.

Q. All right, we are getting to that. At that time what happened? If you were working on the morning shift you just stopped and the other fellow just stepped right in, is that right?

A. Well, you would grab a handful of clay or something and take it out of the jigger box, and maybe wipe your sponge across the tool and take a little bit of the dirt off of it; be all ready.

Q. Step aside and the other man would step in?

A. And then you had to wipe the bench off, and sweep the floor while they were working.

Q. While the other man was working?

A. Yes.

The Master: Was it necessary for the new crew coming in to do any of this preliminary work, or would they start right in on the job as soon as they got there?

A. Well, I don't know. That more or less depended, I guess, on some of the jobs and some of the men. Some of the fellows maybe might not clean up as good as the guy that come on the job would like, and he might clean up a little bit better.

* * *

Q. That is right, you stepped away from the machine, and if you were on the morning shift and the other fel-

low stepped up to it, and you kept it going right along, didn't you?

A. Sometimes they would keep her going without pulling the rope on the mangle to stop it.

Q. In other words, they wouldn't stop even for a minute?

A. Sometimes.

Q. Sometimes, that is right, and you were on both ends of that arrangement?

A. Oh, yes.

Q. One week you might be on the morning shift and you would take over?

A. That is right.

Q. And the next week you would be on the afternoon shift?

A. That is right.

Q. And you would take over where the morning fellow left off, is that right?

A. That is right.

Q. At that time there wouldn't be any lost time between the two shifts, would there?

A. Well, not too much, I guess.

Q. Well, as a matter of fact you fellows would both be there at the same time, one coming and the other going, isn't that right?

A. Yes, a double job.

Q. And you would be producing ware until he got there and ready to grab it; that is right, isn't it?

A. That is right, and he may not like my set on the tool and he would have to knock the edge down or change it altogether. * * *

The Master: Witness, you said you had a clock for your particular crew?

A. Most of the time, not every day; either I or the batter-out or my finisher had a watch.

The Master: Was that a company policy with all crews or did you generally bring your own clock?

A. No, it was our own watch.

The Master: Watch or clock?

A. Watch.

The Master: You are speaking of a wrist watch or pocket watch?

A. Wrist watch or pocket watch; I wore a wrist watch in there for about three years, I guess.

The Master: Did you keep any records from the time you started production work from day to day?

A. No, not actual minutes; I never did.

The Master: Did this question of working overtime, that the company wasn't paying you for, ever occur to you while you were working on the job there?

A. They tried to keep us down under the time limit, but they would tell us to save the time to keep the rates up, less time and higher rates, if that is what you mean.

• • •

The Master: Well, now, while you were working on the job and until this suit was started, did you ever claim, or did it ever occur to you that you were working, actually working more time than the company allowed you?

A. No, it didn't.

The Master: So that you didn't try to keep any record of your own of the actual amount of time you claim you worked?

A. No, the only record I ever looked at was what the time clock showed; we used to watch that quite close to see that we didn't run over forty hours, forty-two or forty-four.

The Master: And you never complained to your foreman or anybody else that actually you were working more time than what the company was crediting you with?

• • •

A. Not that I know of, or remember.

Q. (By Mr. Nunneley) Now, witness, you said something this morning, you were asked about the girl keeping a record of the amount of work that you did. Do you remember that?

A. Yes.

Q. Did you or any one of your group ever get back a paper showing the amount of work that you were credited with?

A. Not for individual days, no.

Q. Well, just how was that kept track of?

A. Well, as each truck was sent—I think I explained that the other day; as each truck was sent, the jigger man's number and name and the batter-out's number and name and the finisher's number and name was marked on a card, which they call a ticket, and there was an original and a duplicate.

Q. Yes?

A. The original went in the box that they had along the bisque line there, and it was turned in the office at the end of the day and the duplicates was put in in the box, and we picked them up on the way to or from work.

Q. So that on this card, which was in duplicate, there was a record of the amount of work which your group had done, isn't that right?

A. Well, not "had done." There was a record showing how much ware we would get paid for.

Q. Well, who made the record?

A. The finisher made the record.

Q. The finisher made the record. All right. So that there was a record of how much work you were going to get paid for, anyway, that day; that was put on the card, wasn't it?

A. That was the record that went into the office.

Q. That was a duplicate card, isn't that right?

A. That is right.

Q. And then sometime during the day, that card was checked by somebody, wasn't it?

A. I think they checked the cards up some time in the evening or the late afternoon, 2:00 or 2:30, somewhere along there.

Q. Didn't the foreman come along and check the tally?

A. He checked the tally. I don't know if he checked

the tally; he just looked them over to see if anybody's names and number was on there. He didn't check them back over.

Q. He just took a general look at them?

A. Yes.

Q. Did he mark them?

A. I don't know. I never seen him do it. I don't know what he did to them.

Q. Didn't he put the O. K. on them?

A. They were stamped O. K. before they went on the line, — the ticket was.

Q. The ticket was stamped O. K.?

A. For inspection and everything.

Q. Then that ticket came back. That was put in a box for you people, for your group, wasn't it?

A. The duplicate.

Q. The duplicate?

A. That wasn't stamped, though.

Q. That wasn't stamped. So that your group, at least among the three of you, if you wanted to, could have that ticket?

A. That is right.

Q. That was what it was for?

A. That is right.

Q. So that you could have a record of what you were supposed to get paid for; that is right, isn't it?

A. For the two weeks' period, yes.

Q. For the two weeks' period. Was there just one ticket for the whole two weeks?

A. No, each truck had a ticket.

Q. Each truck had a ticket. That is what I am getting at. So, you knew just how many trucks you turned out every day, didn't you?

A. Sure. You can see it when you move the truck. If somebody else moved them or we moved them ourselves.

Q. On top of that, you had a ticket that showed how many you were credited with?

A. It showed the date on the ticket.

Q. What?

A. It showed the date on the ticket.

Q. It showed the date on the ticket?

A. When the ticket was made out.

Q. So, there wasn't any concealment or mystery about how much work you were going to get paid for, was there?

A. No. We could figure it out.

Q. You could figure it up yourself?

A. I knew how much I got a hundred thousand, sure.

Q. And you could figure it up at any time yourself?

A. Figure approximately, yes. • • •

The Master: How did you know what time to quit?

A. They told us at 2:30. We were supposed to stop the job.

The Master: Supposed to stop the job at 2:30, they told you that?

A. Yes.

The Master: How did you know when 2:30 came, then?

A. We generally had a clock in front of us.

The Master: Supposing you did not have a clock or watch?

A. You would see the other fellow's.

The Master: Just saw everybody quitting at 2:30?

A. Yes.

The Master: Was there any big clock in the department you could look at?

A. No, not a company clock. Some of the cast ware girls who worked in the other end had a clock, or something, on their bench.

The Master: Was there any whistles blowing at 2:30?

A. No.

The Master: When did the whistle blow during the day?

A. I think they blowed one at 5 minutes to 7, and one at 7, and 12 o'clock, and 1 o'clock, and 4, but that didn't mean anything to our department because we never worked on them hours. • • •

Q. In other words, you couldn't possibly stop your work and wash up, whatever washing up you did, put your shirt on and get over to the time clock in a minute, could you?

A. No, I don't think I could.

Q. And you couldn't possibly do it in three minutes, could you?

A. Oh, well, I think that is possible.

Q. You think you could walk 500 feet, and do all that, in three minutes?

A. Well, you generally put your shirt on on the way out. Lots of times I would be almost down to the clock before I had my shirt tail in.

Q. You didn't waste any time after it got to be your quitting time to get out of there, is that right?

A. You couldn't.

Q. You couldn't. So, if you checked out at 10:31, for instance, that means that you stopped working time before 10:30, doesn't it?

A. That is possible; maybe run out of clay off the job.

Q. Yes, I know, but it means you stopped actual production work and left your place you were working some time before 10:30?

A. That is right; let me explain it.

Q. I asked you if you left. All right, now you can explain it if you want to.

A. You see, the last round the clay carrier made, I think he made a round every 45 minutes and you had to order enough clay, or supposed to, that you figured would do until 10:30; he is talking about the noon hour, and if you didn't figure it down pretty close and you worked steady some time you might run out at 25 minutes after 10, something like that; maybe not work right up to 10:30, not have enough clay. By the time you went out to the slip house and got it.

Q. Well, you were the judge of how much clay to order, weren't you?

A. Tried to be, that was our job.

Q. So that there would be a case, if you went out at 10:31, you left some time before 10:30, didn't you?

A. I imagine so.

Q. And you were paid at least to 10:30, or it was computed in your time?

A. That is the way the clock cards show, yes.

Q. And if you went out at 10:32, how about that?

A. I don't know. I may have quit a couple of minutes or a minute before 10:30. • • •

Q. And, I am just seeing whether you quit ahead of time. Did you on occasion quit ahead of time?

A. Sure, I will admit that. I tried to tell you why.

Q. As a matter of fact, on practically every noon, is that right?

A. That is right. • • •

Q. In your computation of times, you aren't going to give any credit for the time you quit ahead of the 10:30, are you? • • •

The Master: If their claim is correct, there isn't anything there, because they claim the work is from the time the time clock is punched. • •

Q. (By Mr. Nunneley): You said the other day, I believe, that you were required on all occasions or numerous occasions to go out, punch the time clock and then go back and go to work; did you say that the other day?

A. I didn't say all the time, no. I said some of the times we was.

Q. Well, how many occasions do you think you had to do that?

A. I wouldn't remember how many. Quite a few of them.

Q. Quite a few of them?

A. Yes.

Q. How did it come that you were supposed to do that?

A. So there wouldn't be too much time showed on our time clock.

Q. So there wouldn't be too much time shown on your clock?

A. Card.

Q. On the card; according to the company's way of computing, is that right?

A. That is right.

Q. And your clock cards, you saw them every day, of course, the same as the rest of the folks did?

A. That is right. I would see them to punch in and out.

Q. And you saw that the hours which you were credited with the preceding day were all there?

A. They were supposed to be every day. I didn't always look at them.

Q. You knew they were there?

A. I knew they were supposed to be.

Q. And you could look at them if you wanted to?

A. That is right.

Q. And you knew how they were computed, didn't you?

A. Yes, I understand according to the clock cards, they was computed on the quarter hour.

Q. From the quarter hour. You knew the method of computation, and for how long a period did you know that?

A. Did I know what? How they was computed?

Q. Yes.

A. It didn't take me very long to find out after I worked there for a while. They done it all the time I know of.

Q. Well, they done it all the time you worked there, would you say?

A. That is right.

Q. Or did they have time clocks all the time you worked there?

A. They had—wait a minute, now—yes, they had time clocks all the time.

Q. And the same method of computation was followed throughout the whole period you worked there?

A. Yes. I think so, only when I first started there, we didn't always punch out at noon and punch back in.

Q. And the same method was followed during the last four years?

A. That is right.

Q. And since November of 1938, is that right?

A. As far as punching the clock card?

Q. As far as computing the time?

A. Yes, that is right.

Q. And since that time there have been consistently every year a reduction in the number of hours you were allowed, is that right?

A. Well, when the labor laws went in effect, I guess there was.

Q. Was there such a reduction?

A. As far as I know there was, yes.

Q. As far as you know. As a matter of fact, they reduced it, they made it 44 hours at one time, didn't they?

A. Yes.

Q. And then they made it 42 hours?

A. That is right.

Q. And then they made it 40 hours?

A. That is right.

Q. And using the same method of computation, that you folks had followed during all the ten years there, isn't that right?

A. That is right.

Q. And during that period did you get up to the—even up to the legal rate at any time; legal number of hours?

A. Well, I imagine there was times that I come within a half hour, or hour, or quarter of an hour, something like that.

Q. Isn't it a fact, according to the company's method of figuring at least, according to the computation, you were short during all of the last two and a half years, two years, anyway?

A. Yes, but there may have been exceptions in there that one week I come pretty close.

Q. There might be a week when you would be pretty close?

A. That is possible.

Q. But, as a general rule, you were short on your hours of the amount you were permitted to work, isn't that right?

A. That is right to a certain extent, yes.

Q. And on occasions they gave you other work to make up the hours?

A. If we had a day off, or something, yes.

Q. Was that done before you asked for it, or because they wanted you to?

A. Well, I don't know. Sometimes they would come and tell you to do it, and sometimes you ask yourself.

• • •

Q. (By Mr. Nunneley): So that as far as going back to do any work on either of those two weeks to save getting over the hours, it wouldn't be necessary, would it?

• • •

A. No, not unless it was to keep our rate up and our time down, that is the only thing I could tell you, according to that card.

Q. Because any of the extra work you have mentioned could easily have been done within the time, couldn't it, that you had to spare there?

A. That is right, but it would have brought our hourly rate down.

Q. Of course, the hourly rate, as far as your money is concerned, didn't make any difference anyway, as far as the amount of money you received is concerned, the hourly rate made no difference at all, did it? • • •

A. No, it didn't make any difference to me.

Q. (By Mr. Nunneley): That is what we wanted to know.

A. It wouldn't have made any difference in my check.

• • •

Q. (By Mr. Nunneley): According to your method of computation, how many hours did you work the first week shown on that card?

A. The first week?

Q. Yes. • • •

A. I would have to have a pencil and paper to figure up the minutes. • • •

The Master: I won't permit you to have the witness make this computation that you desire.

Q. (By Mr. Nunneley): Well, witness, will you tell us any week that you did any work that is not shown on the time clock cards?

A. No certain week, no, I couldn't tell you.

Q. You can't give us any definite week?

A. No.

Q. During the last three years that you did any work?

A. Not—I couldn't tell you the day or the week or anything.

Q. Can you tell us any month?

A. No, I couldn't tell you no month either.

Q. So that as far as you are concerned you haven't any idea as to when this claimed work was done, is that right?

A. Not that I can recall, no, a certain day or date, or anything else, I couldn't tell you.

Q. Well, on how many occasions do you claim it was done?

A. Well, for a while I imagine it was done almost all the time.

Q. Well, when was that period of time?

A. Well, before they stopped doing that practice.

Q. Well, when was it?

A. Well, I said the other day about a year and a half ago was the last I can remember of it.

Q. In other words, for the last year and a half, then, you haven't done any, is that right?

A. I don't think I have, no, not that I recall.

Q. You don't think so. When was the last time you remember having done any work after punching out?

A. I said approximately a year and a half ago was the last time I remember except going to meetings after we punched out or before we punched in. That would be about two hours to two and a half hours in a two week period we spent up there on our own time.

Q. Now, you claim you did some work before the punching of the time clock in the morning or at noon at any time?

A. Well, I wouldn't say on the morning shift, I did in the morning shift, no, before I punched in in the morning.

Q. Was there any at noon that you did before you punched in?

A. Well, I don't know about noon. I can't recall any time that I did at noon. It was mostly when we would be done at 2:30 and maybe come in ahead if you worked in the afternoon ahead of time and do something like that; load up molds, or change, or something like that.

Q. Can you give us any day you came in ahead of time?

A. No, I couldn't tell you any date or day, either.

Q. You can't give us any idea?

A. I don't think I have done it in the last year and a half, but I know I did it before that lots of times.

Q. Do you claim that every day you worked before the quarter hour starting time between the time you punched in, that you did some work every day?

A. You—no, I don't claim every day. I did every day as far as starting production, sure.

Q. You did every day as far as starting production?

A. Had to get the job ready to operate.

Mr. Goerlich: You mean between the time you punch the clock, and—

A. (Interrupting): Between the time I punched the clock and the time I started jiggering.

Q. And the time you started jiggering. Sometimes you started to jigger after the quarter hour?

A. That is possible.

Q. Have you ever computed what that time amounted to?

A. Which time do you mean?

Q. We have just been talking about.

The Master: I don't quite understand your question, Mr. Nunneley. Have you ever computed what that time amounted to?

Mr. Nunneley: Yes. We have asked him has he done

some work before he started to jigger and before the quarter hour.

The Master: You mean has he ever computed this work he says he did before the quarter hour began?

Mr. Nunneley: That is right. How much time that was.

A. I told you this morning it varied with what you had to do before you would get your job operating.

Q. Well—

A. (Interrupting): Some day it may take a couple of minutes; some day it may take a half hour. It all depends on what you had to do. If you couldn't get a tool set, or something like that.

Q. If it took a half hour, then, you got by the starting time, didn't you?

A. Yes. Through no fault of my own.

Q. Well, is it true, then, that this so-called extra work that you did between that time was a matter of two or three minutes a day, is that what you mean?

A. Sometimes. If you worked on extra you didn't get the work from anywheres from ten minutes to an hour; standing around there waiting for them to put you on a job.

(At this point Mr. Lamb entered the court room.)

Q. One of the things that you said you did was pick up boards as you went in, wasn't it?

A. That is right.

Q. And where were the boards?

A. Well, sometimes they would be down at the lower end of the clay shop, the east end of the clay shop, and sometimes they would be on the bisque belt if we worked at the other end. We would pick them up along the bisque belt. Sometimes you would have to go almost over the whole department before we would find any so that you could start to work.

Q. Generally they were right on your way in, weren't they?

A. Sometimes.

Q. That was the place they were supposed to be kept?

A. If somebody else didn't beat you to them.

Q. That was the place they were supposed to be kept, was right on your way in?

A. Well, there would be some on the bisque belt, or setting in trucks on the way in, sometimes you would have to go beyond and come back.

Q. You can answer my question.

A. I am answering the best I can.

Q. Isn't it true they were generally kept and supposed to be kept right on the way in to your department?

A. Not necessarily.

Q. So that you didn't have to go out of your way to get them at all?

A. Sometimes.

Q. Well, isn't that where they generally were?

A. Sometimes.

Q. Now, you know what I mean.

A. Sure, I know what you mean.

Q. Was it an exception that they weren't there?

A. No, sometimes you could find them there and sometimes they weren't there.

The Master: Where were they the majority of times?

A. Well, they would be all over the shop, they would be in trucks, some be along the bisque belt.

The Master: On most of these occasions, did you have to go out of your way to get them or on most of the occasions were they on your way?

A. Well, sometimes you could pick them up on the way in, sometimes you couldn't. I don't know what the percentage would run. Sometimes you would have them left on your job from the night before.

The Master: You don't have any idea what portion of the time they were right there and what portion of the time you had to go out of your way to get them?

A. Well, if you had to go out of your way, maybe within from five to fifty feet of the job, maybe. If you couldn't pick them up on the way in.

Q. (By Mr. Nunneley): Those boards, somebody was supposed to put one around your place, weren't they?

A. Yes, the trucker was supposed to.

Q. The trucker was supposed to put them there?

A. He was supposed to change the trucks, too.

Q. And he had a job to have those things there before you started in the morning, didn't he?

A. No, I don't think the trucker was there in the morning when we came in.

Q. You don't think he was there?

A. I don't think he came in until 6:30, quarter to 7.

Q. He didn't come in until later. Sometimes there was some left from the night before?

A. That is possible. * * *

The Master: Witness, this extra work that you say you did outside, or sometimes outside of the time punched on the time clock, was that restricted to cleaning molds?

A. Well, it wasn't necessarily cleaning molds. It was changing them from—putting them from one type of ware into another.

The Master: Changing molds and cleaning molds?

A. Cleaning molds and, oh, a few times maybe oiling.

The Master: Was changing molds, cleaning molds, and sometimes oiling molds, was that done on any day during the week, or could it be at any time?

A. They had them all changed to come through. They changed their period, I think. I don't know for sure. It was Wednesday, Thursday and Friday, I think the mold changes came through. That is, one day a week. Of course, it wouldn't hold true every week. A certain period they would come out, but maybe they would run along for six months like that, and maybe change over to Thursday when the mold change came through. Sometimes we would change the same day and sometimes the next day, and maybe a couple of days before we would change the mold like the mold change specified. The mold change come from the main office, front office; what types of ware to run on the job.

The Master: There wasn't any regular routine schedule in which you did that, any day of the week, in other words?

A. No.

The Master: Or any specific amount of time that it would take you when you did that work?

A. No. There couldn't be any certain time because you didn't know when it was going to happen.

The Master: It might be a big job one time, and it might be a small job the next time?

A. That is right. Sometimes you would get them all loaded up and find out you did not have enough molds, and then you were just out of luck. You had to wait for them to decide what they were going to do, and sometimes not change them at all.

The Master: I believe you said you didn't have any records of what you worked at?

A. No. * * *

Q. (By Mr. Nunneley): Then as I get it, witness, there isn't any way that you can tell how much time you spent for any of this so-called work that was done between, or, when the time clock card wouldn't show it, is that right?

A. That is right, I couldn't tell, no records of it myself.

Q. Nor can you in any way tell any amount of work that you did between the times when you punched the clock and the succeeding quarter hour, we will say?

A. Not every day, no, any individual day I couldn't say because there were different things come up that I wouldn't remember I did. * * *

Q. Did you ever have to stand around and wait after you got there for somebody else to come?

A. Yes, there are different times that one of the crew would be a few minutes late; I would have to stand and wait; a fellow happened to be on extra, we waited anywhere from ten minutes to an hour trying to get a job, until they decided who they wanted to send home. If you had a day off you had to stay there until 7 or 8 o'clock until they released you to go out.

Q. (By Mr. Nunneley): Witness, can you tell us how many weeks you claim you worked overtime?

A. No, I don't think I could; I never stopped to figure it up.

Q. Never stopped to figure it up. Did you ever stop to figure up how many hours you claimed overtime?

A. For a period of four years, no, because I wouldn't know.

Q. For the last year?

A. No, I wouldn't know.

Q. I show you Exhibit No. 31; how many hours do you claim you worked the first day shown on the exhibit?

The Master: If you want a pencil and paper, here it is (indicating).

A. 3 hours and 29 minutes, I think. I think it is 3 hours and 29 minutes. • • •

Q. (By Mr. Nunneley): On the first day on there, you went in at what time?

A. At 2:36.

Q. 2:36. And do you know whether on that day you were working the shift with another fellow?

A. No, I couldn't tell you that.

Q. You couldn't tell us that?

A. No.

Q. According to the method which was customarily followed and which you knew about on that day, of course, your time, the company would compute the hours as being what? • • •

A. 2:45.

Q. (By Mr. Nunneley): 2:45. So that there was a difference of 9 minutes there?

A. That is right.

Q. And during that period you went back and did all the things you have talked about this morning, got ready to go to work?

A. I wouldn't say all of them. I did some of them.

Q. Some of them?

A. Yes.

Q. You did some of them but not all of them?

A. Not for that day. I don't know which ones.

Q. And in the afternoon you got out af 6:05, didn't you?

A. 6:05 that evening.

Q. Yes. That was five minutes after the company's time that they gave you credit for, you were out of the place, weren't you?

A. That is right.

Q. Beyond the clock?

A. At the clock at 6:05.

Q. And on the next day on the card, you went in at what time?

A. 2:37, I think. That is what it looks like.

Q. That would be a matter of 8 minutes before the company would say was what they would say under the customary rule was the starting time, is that correct?

A. That is right.

Q. And you went out, the first time out that day, you went out at what time?

A. 7:01 that night.

Q. In other words, you were back to the clock and on your way out within a minute of the time that the company stopped paying you, weren't you?

A. That is right.

Q. So that on that day you must have ceased work some time before the company— . . .

A. I think I did.

Q. (By Mr. Nunneley): And how long ahead of time would you say you ceased work that day?

A. I don't know.

Q. You don't know?

A. 7 o'clock, maybe.

Q. And you went in again at 7:20, is that right, in the evening? You were working the evening shift?

A. 7:20.

Q. And that was ten minutes before the time, is that right, that the company figured you were supposed to start work?

A. I don't know what they figured we was supposed to start work. 7:16, I guess.

Q. 7:16. Anyway, you didn't go in until 7:20, did you?

A. I can't eat my lunch in five or ten minutes. It isn't good for the health.

Q. But you did go in at 7:20, didn't you?
A. 7:20, yes.
Q. And you went out at what time, 11:09?
A. That is right.
Q. That was 9 minutes after they paid you for on that day?
A. That is right.
Q. And the next day on there, on Friday, you went in at 2:35?
A. That is right.
Q. Again 9 minutes before the company would start crediting you with time, wasn't it?
A. 10 minutes.
Q. 10 minutes before. And you got out at 7:03, is that right?
A. That is right.
Q. You stopped a little before 7, probably, that day, too, didn't you?
A. I wouldn't know.
Q. You wouldn't know. And on that same day you went back in again at 7:23?
A. That is right.
Q. They allowed you 7 minutes to get back and to get going again, didn't they?
A. I guess so.
Q. And you went out again at 11:09; that was 9 minutes after their time?
A. That is right.
Q. Then you switched to working in the morning, on that card?
A. That is right.
Q. And the first morning you went in at what time?
A. 5:49.
Q. And out at what time?
A. 10:31.
Q. So that again you must have stopped working some time before the 10:30 period, isn't that true?
A. Production?

Q. Yes.

A. That is possible.

Q. Or any other kind of work. You couldn't get to the clock in that length of a minute, could you, from where you worked?

A. It all depends where I was working.

Q. All right. You were working in the clay shop generally, weren't you?

A. That is right.

Q. And you want to tell us you could get to the clock in that time. Do you have to take your apron off when you get through work?

A. Yes.

Q. And you go out and put your shirt on?

A. On the way out.

Q. Wash yourself off as you have described?

A. Just my hands.

Q. What?

A. Just my hands.

Q. Washed your hands. And, you got out there within a minute and you want to tell us you didn't stop working before that time?

Mr. Goerlich: I object. • • •

The Master: They do claim work should be computed from the time the time clock is punched and since this activity went on afterwards it must be within what they claim to be work under the pleadings. • • •

And by "working" means you didn't stop production work before that time, did you?

A. Before 10:30, you mean?

Mr. Nunneley: Yes.

A. I don't know, it could be.

Q. (By Mr. Nunneley) It could be that you stopped work before?

A. Sure.

Mr. Lamb: Production work.

Q. (By Mr. Nunneley). Any kind of work?

A. You said "production work" before.

The Master: Don't shift to "any kind of work," because—

Mr. Goerlich: He is trying to mix the witness up.

The Master: You will have to indicate you are asking a new question now, if you want to ask him what time he stopped any kind of work, you can do that.

Q. (By Mr. Nunneley) All right, what time, can you give us your best judgment as to what time you stopped production work on that first Monday shown on the card, Exhibit 31?

A. Stopped production work?

Q. Yes.

A. Oh, I don't know, 29 minutes to, or after, or 10:30, I don't know; I don't recall the particular day. At noon there wasn't much—just pull the switch and take a couple of swipes with your sponge and run, if you wanted to eat your lunch without swallowing it whole, and get a chance to smoke a cigaret.

Q. And that day you went back in at 10:53?

A. That is right.

Q. That allowed you seven minutes to get down to the place where you were supposed to start production work, didn't it?

A. Well, I don't know if they figure it that way or not; seven minutes to get down there; we were supposed to get in there and go to work as fast as we could.

Q. Oh, I see. Provided all the rest of your group were there, that is right too, isn't it?

A. That is right.

Q. And you don't know whether they were all there at that time or not?

A. Not that particular day, no.

Q. Nor any of these particular days, you don't know whether the whole group was there or not, do you?

A. No, I couldn't say for sure.

Q. So as a matter of fact you couldn't actually start production work until the last one of your particular group got there on any day?

A. At noon?

Q. Any time.
A. It could be in the morning.
Q. How could it be in the morning?
A. Well, he could put an extra man or extra girl, whoever it happened to be.
Q. All right until either your crew got there or they dug you up an extra worker?
A. That is right.
The Master: I think that has been gone over.
Q. (By Mr. Nunneley) And you went back in at 10:53, that was 7 minutes before the time that they would be crediting you, according to the custom or system, isn't that right?
A. Yes, that is the way they figured it.
Q. And out at 2:40 on that first Monday on the card, Exhibit 31, five minutes before the time—pardon me, 10 minutes after the time, that is right, isn't it?
A. Ten minutes after what time?
Q. The time to which you would be able to quit.
A. We had to be punched out by quarter to 3:00, supposed to be.
Q. You had to punch out. In other words, there were requirements that you had to be out as well as requirements that you had to be in, is that right?
A. That is right, so we wouldn't accumulate too many hours.
Q. So you wouldn't get too many hours in, and you understood that during all of the last four years, did you?
A. Well, they told us every meeting.
Q. They told you, and I asked you, you understood it, did you?
A. Sure.
Q. And cooperated in doing it with the company?
A. As much as possible.
* * *
Q. (By Mr. Nunneley) Now, witness, I will take this one card and ask you to figure out the first week on the card how many hours you claim you worked, according to your system?

The Master: I will let him do it with this one card; we have argued this question out, and I will let him do it with this one card, but not permit him to do it with any other cards. Will you figure out how many hours you claim you worked?

A. According to my figures, 37 hours and four minutes for the one week.

Q. (By Mr. Nunneley): For the one week?

A. That is right. I had a half a day off that week.

Q. You had a half a day off that week. All right. Figure the next week on the clock. You don't claim anything for that week, then, do you?

A. Oh, I don't know. • • •

Q. (By Mr. Nunneley): Regarding this particular week that you figured up from Exhibit 31, what if any time did you spend working that is not shown on the clock card here, according to your method of computation?

A. That particular week I don't know, only for the meetings; I know I spent some time up at meetings that we figure is work, pertaining to our work, anyhow. • • •

Q. (By Mr. Nunneley): Witness, outside of meetings, what time did you spend doing work that is not shown on this card, this particular week?

A. I couldn't tell you for that particular week. It is too long ago.

Q. Couldn't tell us how much time you spent?

A. No.

Q. There wouldn't be any record of it, would there, that you know of?

A. Not that I know of, only if there happened to be a mold change that week, it might show the mold change.

Q. And you don't know?

A. No, I don't know.

Q. All right. Now, will you figure up the second week on the card; did you have any half days off the second week? You might look at it first and see (handing card to witness)? • • •

A. I worked full time.

Mr. Lamb: What do you mean, not going by the card?

* * *

The Master: I think this has been gone into, but I will ask the witness, did you state that this extra work was discontinued about a year and a half ago?

A. As far as punching out and coming back in and doing it, yes, I think so. That was my approximate figure. That is the last time I would say I had done that.

The Master: And before that time you say you did extra work, consisting of cleaning, changing, and sometimes oiling molds, which sometimes was done outside of the hours that you were working as indicated on the cards?

A. That is right.

The Master: But you don't have any records of that work, do you?

A. No, I haven't.

The Master: And you can't identify any particular week in which you did that work?

A. No, I couldn't; not unless the mold change would show up in the job. And then I couldn't say for sure that I done it that particular time.

The Master: And you couldn't say on that particular time as to whether you did it within the hours shown on the time clock cards, or outside of the hours shown on the time clock cards?

A. It was the general practice for them to have you do that.

The Master: It was the general practice—

A. (Interrupting): To have you do that, yes.

The Master: To have you do what?

A. To finish changing molds, or oiling molds, or come in and load up your molds before you punched your time clock in, or after you punched out. Maybe not the whole thing, but some of it.

The Master: You say it was the general practice to do that outside of the time shown on the time clock cards?

A. Yes, sir.

The Master: I thought I asked you whether the majority of the time you did it outside of the time shown on the time clock cards, or whether the majority of he time you did it within the time shown on the time clock cards, and you said you didn't know what percentage it was, or whether it was fifty-fifty.

A. It was the general practice to do that work.

The Master: Was it the general practice to do that outside of the time shown on the time clock cards?

A. Maybe not the whole thing, but sometimes it was.

The Master: I don't understand your testimony. You say that you regularly did this work—either regularly or irregularly did this work, but very frequently did this work of changing and cleaning the molds and sometimes oiling the molds?

A. That is right.

The Master: And sometimes you did it outside of the time shown on the cards?

A. And sometimes inside the time shown on the cards.

The Master: Do you know whether on more occasions it was outside the time shown on the cards or on more occasions it was inside the time shown on the cards?

A. I wouldn't be able to say. As far as oiling molds, I would say most of the times it was done inside the time showed on the card here.

The Master: I see.

A. But changing, why, I couldn't even guess on that. I know it was done a lot and I did it a lot.

The Master: Now, do you have any way of telling in any particular week throughout the entire period that you worked there how much time was spent outside the time shown on the time clock cards, in doing this work of cleaning, changing, and oiling the molds?

A. No record at all of any kind like that. • • •

Q. (By Mr. Nunneley): Can you tell us of any week that you can recall of now that you worked more than the legal number of hours?

Mr. Lamb: Objection.

The Master: I will overrule the objection. • • •

A. No, I couldn't be able to tell.

Q. (By Mr. Nunneley) Can you tell if you examine the cards any week that you worked more than the time?

Mr. Lamb: He would have to compute them, wouldn't he?

A. I don't know if I would be able to or not.

Q. (By Mr. Nunneley) We will show you the Exhibits 31 through 31-LL, and ask you if you can tell any week from examining the cards (handing exhibits to witness)?

Mr. Lamb: Objection. That is going to require a computation on every week.

The Master: I am not going to permit the computation. I have already ruled on that.

Can you tell without making a computation?

Mr. Lamb: No one could.

The Master: I will ask the witness.

A. The only way I know would be to take their figures.

Mr. Lamb: And that would represent the company's computation, but not the actual computation.

The Master: You have already stated, according to the company's computation you have never worked overtime, have you not?

A. Not that I remember, no.

The Master (Interposing): How much could this charity work amount to in any given week? Is there any maximum figure you can place upon it? And that is—I don't mean just the work of changing and cleaning the molds, but the work of changing and cleaning the molds that was done outside the time shown on the time clock cards.

A. No, I wouldn't be able to say.

The Master: Could that amount to as much as four hours a week, or four hours in any one week?

A. No, I don't think I ever spent more than that.

The Master: Could it amount to three hours?

A. I couldn't say; I don't remember.

The Master: The total amount of time spent in changing and cleaning the molds, irrespective of whether it was

within the time shown in the time clock cards or outside that time, could that total time in a given week amount to more than four hours?

A. Yes.

The Master: You might spend more than four hours a week in cleaning and changing the molds?

A. Sometimes cleaning and oiling them might take six hours; it all depends on the job.

The Master: But you don't think you could have spent as much time as four hours a week outside the time shown on the time clock cards doing that work?

A. I don't remember of any certain time.

The Master: Well, whether you specifically remember it or not, do you know whether in any one week you could have spent that much time?

A. I don't think it has ever happened to me; it may have happened to some of the other fellows.

The Master: I am just restricting the question to you.

A. I don't think so; I don't know.

The Master: But as to three hours, you are not so sure?

A. No.

The Master: I will put the question directly to you again. Can you say whether you spend as much as three hours, or rather, can you say you never spent more than three hours' time outside the time clock record in doing this extra work of cleaning and changing molds and oiling them?

A. Well, I don't believe I have.

The Master: You don't believe you spent that much?

A. Not any more than three hours.

The Master: Could that have ever been as much as two hours in a given week?

A. Oh, it could have been that. • • •

Q. (By Mr. Nunneley) What is the earliest you remember going to work at the plant? • • •

A. The year we had that snowstorm I say I was there at 4:30 in the morning that morning.

Q. That was why?

A. Because of deep snow, I wanted to be there on time.

Q. You wanted to be there on time and you didn't know how much trouble you would have?

A. I didn't know how much trouble I would have.

Q. You didn't know how much trouble you would have and you left home early and got there at 4:30 in the morning?

A. That is right.

Q. What is the earliest, outside of the snow storm, time that you remember getting there?

A. Oh, I may have got there quarter after 5:00, twenty after 5:00, 5:30.

Q. You have left home from 12 miles away in time to allow yourself enough time to be sure to get there?

A. That is right, in case I would have a flat tire, or something.

Q. In case you had a flat tire, or something of that sort, and as a general rule you would say you got there what, ten or fifteen minutes before punching-in time?

A. Something like that.

Q. And in the afternoon when you were working on the afternoon shift, the usual time for starting on that shift was what?

A. 2:30.

Q. And what would you say was the earliest you would get there on those occasions? • • •

A. Oh, I have been there lots of times 2 o'clock.

Q. You have been there lots of times at 2 o'clock?

A. That is right. • • •

Q. How late would you say when you would leave the plant after you had completed your shift? If you were on the early shift, or the daytime shift, how late would you say you would stay around there?

A. I don't know. Sometimes I would go straight home, sometimes I would go downtown.

Q. I mean around the plant. I don't care whether you

went home or went downtown. When you left the plant, that is what I am talking about.

A. Well, on Thursdays we left the plant anywhere between 4 and 4:30, after we got out of the meeting. The other days it would vary. 3 o'clock, quarter after, 10 minutes to 3. It all depends if I was in a hurry to get home to do something, I would go right home.

Q. And this matter of changing molds, you did that how often?

A. No set time, because it all depends what job you worked on. Some jobs change every week and some change every eight or nine or ten weeks. It depends a whole lot on the job.

Q. So you can't enlighten us at all as to how many times you have changed molds?

A. No, I couldn't give you no figure on that.

Q. Can you tell us how much time you spent—

A. (Interrupting) How long it took to change a set of molds? Three to six hours.

Q. Three to six hours. And the number of times you changed, you can't tell that, is that right?

A. Can't tell what?

Q. The number of times you changed molds, let us say, in a year.

A. I wouldn't be able to answer that. • • •

Q. (By Mr. Nunneley, continuing) I show you Exhibit 32 being a time card of Walter Selk for the period of December 3, 1940. What time does it appear from that card that Mr. Selk went by the time clock on the first day shown on the card (handing exhibit to witness)? • • •

A. 5:55.

Q. (By Mr. Nunneley, continuing) And, Exhibit 31-RB, your card for the same time, same period, what time did you go to work that day (handing exhibit to witness)?

A. 5:49.

Q. Now, what time did you say your crew were able to start work that day?

Mr, Lamb: Objection. It is immaterial what time the crew starts to work.

The Master: I will overrule the objection.

A. Well, it depended on if him and I was working together that day or not.

Q. (By Mr. Nunneley, continuing) Didn't you testify this morning you and he were working together at that time in December?

A. Not that same day, no.

Q. Not that same day?

A. I may have worked with five different guys all in one week.

Q. So, you say now you don't know whether you were working with him or not?

A. Not that certain day.

Q. I see. All right. Did you tell us this morning that you were working with him in December of 1940?

A. I think that is when I said I started to work with him was in December, as far as I could recall.

Q. Now, I will show you Exhibit 32 and ask you about the second day on there. What time did Mr. Selk go to work (handing exhibit to witness)?

A. 5:53 punched in.

Q. And what time did you go according to Exhibit 31-BB?

A. 5:50.

Q. You weren't able to start doing any producing that day, either, until he got there, were you?

A. Not actual jiggering if him and I was working together I couldn't have. I don't imagine I could.

Q. And what time does the third day on the card show?

A. 5:58 for Wally and 5:49 for me.

Q. So that you couldn't have started working on that day until after the time which the company would give you credit for, could you?

A. If him and I was working together, yes, that is right.

Mr. Nunneley: Mark this, please.

(A document was thereupon marked Exhibit 33 by the reporter.)

Q. (By Mr. Nunneley, continuing) I show you Exhibit 33, being a card of Walter Selk for January 7, 1941. The first day on there, what time did he start, come in? What time did he come in (handing exhibit to witness)?

A. He punched in 2:44.

Q. According to the established practice, which you were familiar with all this time, what time would his compensation start?

A. They figured his time as 2:45.

Q. 2:45. And on that same day what time did you go in?

A. 2:45.

Q. According to the practice what time was yours figured from?

A. From 2:45.

Q. From 2:45. On neither of those days were you at your stations, either one of you, before the hour at which the company would credit you? • • •

A. If we were out there at the clock we couldn't come back to the job at 2:45. • • •

Q. (By Mr. Nunneley) Now, you claim you were charged for some things that were not authorized, is that right? • • •

A. Well, they weren't authorized for me, if I had to sign over whether I was to pay them or not.

Q. During all the time you were a jigger man there, except the last few months anyway, the sponges were charged to you and all other jigger men, that is right, isn't it?

A. That is right.

Q. And that was the established custom and practice in that plant, was it not, during all the time that you were there? • • •

A. The jigger men had to pay for the sponges.

The Master: And that was an established practice of the company to require them to?

A. As far as I know. • • •

Q. (By Mr. Nunneley) And how many sponges were charged to you, if you know, during the period? • • •

A. The period of two weeks or one week?

Q. (By Mr. Nunneley): Well, let's say a week.

A. Well, some jobs use three sponges a week and some of them would use, well, two one week and maybe one the next week, or three in a two week period; it would depend a lot on the job and on the finisher.

Q. Were the people permitted to buy them anywhere else if they wanted to?

Mr. Lamb: Objection.

A. I don't know about that.

Mr. Lamb: Just a second, an objection; that is immaterial; how does he know whether the people, whoever the people might be.

Q. (By Mr. Nunneley): Were your group, were you permitted to buy them anywhere else if you wanted to?

A. I didn't buy them, the finisher bought them. • • •

Q. (By Mr. Nunneley): Do you know whether the finisher was permitted to buy them anywhere else?

A. I don't know. I never asked her.

Q. You never asked her.

The Master: Let's see, now. Did the finisher buy the sponges and they were deducted from your pay?

A. That is right. She used them and I paid for them.

Q. (By Mr. Nunneley): And she used them in a group operation, didn't she?

A. Well, she finished her ware.

Q. I say, she used them in a group operation?

Mr. Lamb: The answer was given that she used them in her work.

Q. (By Mr. Nunneley): It was your ware as well as hers, wasn't that right?

Mr. Lamb: Objection. • • •

The Master: The witness has testified—you have tes

tified you worked as part of a crew, consisting of yourself and another man and the girl that was acting as the finisher?

A. That is right.

The Master: Were these sponges for which deduction was made used by the finisher in your crew?

A. Yes, she would use them on our ware, and sometimes she would go over on another job, she would take her sponge with her.

The Master: Were you ever charged for a sponge that was purchased by a girl who, at the time she got it, was working on another job?

A. I wouldn't have no way of knowing, because our name was put on there by the foreman and handed to the finisher, and we never seen any, or very seldom seen any sponge order. We don't know who it was charged to.

The Master: You weren't asked to sign the order?

A. No, it wasn't signed by anybody—that is, by us. The foreman would sign, I guess, and put our name on it.

Q. (By Mr. Nunneley): Well, let's see. The girl that worked with you, your finisher worked with you in your group, she used the sponge in the operation, didn't she?

A. Yes, she used sponges.

Q. You never worked in a pottery, or in this one at the time when the jigger man hired his own crew, did you?

A. No, that was before my time.

Q. That was before your time. Do you know whether originally that wasn't the situation.

Mr. Lamb: Objection.

Q. (By Mr. Nunneley): That the jigger man hired his own crew, do you know?

The Master: I will overrule the objection.

A. Oh, I have heard that was the case before I came there.

Mr. Lamb: How long have you been there?

A. Ten years.

Q. (By Mr. Nunneley): There was a store there in the plant, wasn't there?

A. During the time I worked there?
Q. Yes.
A. Stock room, yes.
Q. And a man there in charge of it?
A. Yes, sir.
Q. And such articles as they had that you wanted, you could go there and buy, couldn't you?
A. By order, yes. I don't think you could pay outright for them.
Q. No, they took in no cash at the store?
A. As far as I know they didn't.
Q. But you could go there and order whatever you wanted that they had and sign for it, couldn't you?
A. Well, I don't know if you could everything or not.
Q. Did you have to get things at that store?
A. Yes, I have got things at that store.
Q. What did you get there?
A. Oh, a roll of tape now and then, or if I would cut my finger, a finger stole; and pails.
Q. Pails. What else?
A. I guess that is about all I would get.
Q. You would go there and get it and sign for them?
A. That is right.
Q. You would sign a ticket?
A. Yes.
Q. The man in charge was not allowed to take in any cash, and you didn't pay any cash?
A. He never took any from me.
Q. And when the next pay came, whatever you would sign for would be taken off of your pay, wouldn't it?
A. I imagine it would be. We didn't know how much or anything.
Q. You didn't know how much or anything. Did you ever inquire how much? • • •
A. Not that I know. • • •
Q. (By Mr. Nunneley): And, after you bought these articles, it was taken out of your pay? You understood it right along, didn't you?

A. Supposed to be.

Q. Yes. And did you ever question any of the deductions at all?

A. That come from there?

Q. Yes.

A. Maybe not that particular pay, no.

Q. Any pay?

A. Sure, I questioned deductions when I didn't draw as much as I figured I should have coming.

Q. And you would ask for an explanation?

A. That is right, I would want to know what was deducted.

Q. And then they gave you the explanation?

A. In time. • • •

The Master: You asked him about his questioning about pay.

Mr. Nunneley: That is right.

The Master: And we went through that in considerable detail.

Mr. Nunneley: The claim is made here now—

Mr. Goerlich: (Interposing): How he went to his foreman how his foreman would go to somebody else, and how somebody else would send it back to his foreman, and then back to him.

The Master: The question is now limited whether he made complaints or questioned the deductions of this type of pails and finger cots and so forth.

Mr. Nunneley: That is right, things that he bought.

The Master: Did you ever question those deductions being made from your pay?

A. Not the pails or finger cots. Sponges would be included, likely, on the pay I would ask.

The Master: You would question about the sponges?

A. Well, sponges and everything in general; bisque grind. They would deduct for that.

The Master: What you mean is that you questioned about whether your pay was properly computed?

A. That is right. Whether I got as much as I was supposed to have coming.

The Master: Irrespective of what form the deductions took?

A. Yes.

Q. (By Mr. Nunneley): And, they would tell you how many sponges were deducted, wouldn't they?

A. I don't know if they gave the number of sponges they deducted, or the price.

Q. Or the price, you don't know which they gave?

A. No, I don't remember for certain which they gave.

Q. And they would tell you on any of the other items that you had what was deducted, what it was for, didn't they?

A. Yes, they would tell us.

Q. And after they told you did you have occasion to complain that you hadn't gotten the articles which they told you?

Mr. Lamb: Objection.

The Master: I will overrule it.

A. It wouldn't do no good.

Mr. Nunneley: I asked if you ever complained—

Mr. Lamb: (Interposing) May I have the answer first?

The Master: He said, "It wouldn't do no good."

Q. (By Mr. Nunneley): Did you ever make the complaint that you hadn't gotten the articles which were indicated to you?

A. I made it plain that I wasn't satisfied with my pay sometimes when they would take so much time.

Q. I didn't ask you that. I asked you did you ever make the complaint that you hadn't gotten the articles which were indicated to you?

A. It all depends who you mean to make the complaint to.

Q. To anybody?

A. Went out to Mr. Doll? No, I never went to him. I made it to my foreman.

Q. You made it to your foreman that you hadn't gotten articles?

A. That I wasn't getting enough money, that I figured they deducted too much from me.

Q. And he filed it with the office and gave you the explanation; that is what you told us this morning, on general?

A. That is right.

Q. Do you know anything about what these articles cost, that you had the sponges for instance— • • •

A. No. I said only what I heard.

Q. What you heard?

A. Well, the finisher told me 30, 35, 65 cents for sponges.

Q. 65 cents for sponges?

A. Yes. They used to get a silk sponge, they called it, for 65 cents, as far as I remember; something like that.

Mr. Lamb: I think the company computation sheets will show that, your Honor.

Q. (By Mr. Nunneley): Do you know what any of these articles that you purchased from the company cost?—

A. No.

Q. (Continuing):—the company?

A. They never opened their books to me on that.

Q. Did you ever compare their prices with what ou could obtain the same article for somewhere else?

A. No, not on sponges, because the finisher knew what kind of a sponge he wanted, and I didn't.

Q. On these other things you bought?

A. There were very few things I ever bought in there that it wouldn't pay to walk outside and spend a couple of hours down town looking for. Maybe a roll of tape a year, or finger stall once a year.

Q. So it would be a matter of 10 or 15 cents, is that right?

A. I don't know.

Mr. Lamb: Won't the records be the best evidence of that?

The Master: If the witness knows. He bought them. He ought to have some idea.

A. I think a roll of tape was 27 cents, 26 cents; finger stalls was, light ones was two for a nickel, I guess, and the other ones was a nickel apiece.

Q. (By Mr. Nunneley): What else did you buy?

A. Pails.

Q. Yes.

A. New pails.

The Master: What did they charge for pails?

A. I don't know what they was.

The Master: Do you have any idea?

A. When they made out the order, they didn't have no price on, as far as I ever remember seeing one. They just put your name—and, I don't even know if they asked your number now, and the article on them.

Q. (By Mr. Nunneley): How many pails would you say you bought?

A. Within what period of time?

Q. Well, let's say 1940, just to give us something.

Mr. Lamb. There is an objection.

A. I wouldn't know.

Mr. Lamb: Just a second. It isn't a question of this witness buying anything. There were certain unauthorized deductions made. In other words, the question here assumes the very issue of law involved.

The Master: How many pails were you charged with over a year's period? How many pails did you have to need and get from the store?

Mr. Nunneley: You don't have to take Mr. Lamb's word for it. He had to get an order to get it.

Mr. Lamb: There were pails the finishers got that were deducted from this man's pay.

Mr. Nunneley: We will find out.

The Master: There is no use arguing about that. How many pails would you get from the store a year? How many would you need?

A. I don't know. I just bought one or two pails there since the last walk-out.

The Master: Since the last walk-out?

A. Or the walk-out. The first strike was in April.

The Master: Have you been working there steadily since then?

A. Up until this strike, yes.

The Master: When was the second strike then?

A. In November.

The Master: That is from April to November you bought one or two pails?

A. Yes, I think I did during that time.

Q. (By Mr. Nunneley): How many would you say you bought in 1940?

A. I don't know if I bought any or not, for sure.

Q. You don't know if you bought any or not; or in 1939?

A. I wouldn't be able to say. I don't remember.

Q. Or in 1938?

A. I don't know.

Q. Well, witness, this matter of pails isn't a matter of many dollars, is it?

Mr. Lamb: Objection. Immaterial.

The Master: I will overrule the objection.

A. Not to me personally, no.

Q. (By Mr. Nunneley): The company furnished some pails, didn't they?

A. They never furnished any to me.

Q. Never furnished any to you. Isn't it a fact that they always furnished one pail to start off with? • • •

A. Well, I wouldn't say it was furnished by the company. I don't remember how many pails I bought when I first started to jigger, but even then it was not furnished by the company. It was furnished by the fellow who worked there before I did. He was the guy that bought them in the first place.

Q. (By Mr. Nunneley): Would the pails wear out? Is that the reason you had to get new pails?

A. Yes, they wear out.

Q. I say, is that the reason you had to get new pails, is they wore out quite frequently?

A. Wore out, and someboody else take them. • • •

Q. Now, so we can get some idea of this, you say you bought two pails a year?

A. I wouldn't know if it run that much or more or what.

Q. What?

A. I say I wouldn't know whether it run that much or more.

The Master: I know you don't know exactly, but do you have a rough idea; what is your best approximation as to about the number you would use, or you would have to get from the store in a given year?

A. Why, I wouldn't be able to say, maybe one a year, because we keep changing jobs, and the guy that maybe I went on to work with on the job sometimes would be there, and the other guy would quit and leave his pail there, and like that.

The Master: Sometimes you would fall heir to other people's pails?

A. Yes; only one fellow took his pail that I know of.

The Master: And sometimes somebody else would take your pail away from you and you would have to go and get another one?

A. That is right. • • •

Q. (By Mr. Nunneley): And the cost of a pail was about 25 cents, wasn't it, witness? • • •

A. I don't know what they charged for them. • • •

The Master: Didn't you ever find out when you asked the foreman?

A. I have heard 28 or 30 cents.

The Master: You heard that from the foreman or the men around the shop?

A. Just general talk.

Q. (By Mr. Nunneley): They varied from time to time, didn't they?

A. I don't know, that is just what I heard.

Q. You don't know whether you paid more than the company paid for the pail or not, do you?

A. No, they never gave me no receipt.

Q. And the same is true for any other article that you bought, you don't know whether you paid more than it cost the company or not, do you?

A. That is right; I have no receipt or nothing to show for it.

Q. And outside of the things that the finisher got, you couldn't get anything, and didn't get anything then without signing an order for it, did you?

A. Without me signing an order?

Q. Yes.

A. I don't think it was required for me to sign, even no matter what I got. I think the fellow at the stock room put your name and number down, he would ask your name or number, I don't remember what it was, asked you what you wanted.

Q. At least something was taken out, or nothing was sent over to you and charged to you unless you went and got it, isn't that right?

Mr. Lamb: An objection, isn't the foreman the one that made the deduction of the items for finishers, for instance?

The Master: I don't understand it that way, I thought his testimony was otherwise, but we will find out from the witness. Read the question.

(Question read.)

The Master: Is that right?

A. I wouldn't know about that, whether somebody else got stuck under my name or not, I wouldn't be able to say. I know the finishers can go over and get sponges under my name, and they did, but anything else, if I didn't get it myself, I don't know whether they charged me for stuff I didn't get or not, no way of me telling.

Q. (By Mr. Nunneley) Let's put it this way; did they ever send over anything to you and tell you you had to buy it?

A. Not that I can recall, no. • • •

February 25, 1942

EARL WILLIAM LARIMER, was thereupon called as a witness on behalf of the Plaintiff herein, and having been first duly sworn, testified as follows:

Direct Examination

By Mr. Goerlich:

Q. Will you state your name, please?
A. Earl William Larimer.
Q. And your address?
A. 6 Smith Street, Mt. Clemens.
Q. Mt. Clemens, Michigan?
A. That is right.
Q. You have been an employee of the Mt. Clemens Pottery Company?
A. Yes, sir.
Q. For how many years have you been an employee of the Mt. Clemens Pottery Company?
A. It is the only place I have worked in the past twelve years with the exception of three weeks at Hudson Motor here in the last month or six weeks.
Q. Will you tell us when you terminated your employment at Mt. Clemens Pottery, when you stopped working there?
A. It was, I believe, around November 22nd. Is that right? When this last strike started—November 22nd.
Q. That is 1941?
A. That is right.
Q. Prior to that time you worked twelve years at the Pottery Company?
A. That is right. That is the only place I worked in twelve years.
Q. Tell us what department you worked in, witness.

A. Clay department. • • •

Q. Is that the same department that Mr. Metz works in?

A. That is right.

Q. Will you tell us what type of work you are engaged in in that department?

A. For the past five years I have been an oval ware jigger man. • • •

Q. And, where do you procure the clay from which you mold the dishes? • • •

A. That comes from another department where it is mixed up ready to make the dish with.

Q. That is brought into your department?

A. That is brought into our department.

Q. You work with that clay?

A. That is right.

Q. Make these various articles of which you have testified?

A. That is right.

Q. Now, what is done with these articles after you have finished your work on them?

A. Run through a mangle and dried, and then the finisher takes it off the molds and finishes it up, gets it ready so that it can be put through the kilns to be burned.

• • •

Mr. Goerlich: I might say these questions I am addressing to the witness now are for the purpose of showing interstate commerce; and as I understand it, the defendant is unwilling to concede that the employees, herein, the plaintiffs herein are engaged in interstate commerce. So I suppose we will have to go through in detail what the employees do, and show that they are a part of a stream shipped outside the state.

Now, we could save some time if the defendant would concede they are engaged in interstate commerce.

Mr. Cooper: If that is the purpose, I will note my objection, on the ground that it does not come within the complaint. The complaint makes certain allegations with

reference to the nature of the business of the Mt. Clemens Pottery Company, a number of which are admitted in the answer, and the question as to what type of activity employees are engaged in, however, I can find nothing in the complaint as to that.

As I understand it, it is necessary not only to prove but to plead the facts on which any claim must be based, and I note an exception to any such proof. • • •

The Master: Well, this is all a matter of argument. I will take the proofs. You have your objection on the record, and I will take whatever proof they have to offer on the interstate commerce angle here.

Mr. Goerlich: I think we got as far as the kilns, witness.

Q. (By Mr. Goerlich): Now, will you tell us what happened after the products upon which you worked are placed in the kilns?

A. They have what they call a continuous kiln and the cars are loaded and go through this kiln and are burned and when they come out they are unloaded out of the car, and from there they are taken to the dipping room.

Q. Then what is done in the dipping room?

A. Then the ware is brushed and glazed and then it is loaded on to the gloss kilns, in cars again, and from there it goes through the gloss kilns and is burned again. This time when it comes out it is burned to a glaze finish, and from there it is unloaded out of the cars, goes on the chipping belt.

Q. Then where does it go?

A. From the chipping belt it goes probably from there to the decorating room and is decorated, either decorated, lined, or possibly some of it may be shipped out just in plain green or blue glaze, which would possibly go from there to the packing shed.

Q. And then where is it sent after it is decorated, after it is fully completed?

A. After it is decorated it is burned again through

another kiln and then it comes out in finished ware and then it is either loaded in cars or else stored in what they call the packing shed.

Q. Stored where?

A. Either loaded in cars or stored in the packing shed, that is in the storage room.

Q. Now, does the company in any manner segregate the ware which you make?

Mr. Cooper: If the witness knows.

Q. (By Mr. Goerlich): If you know?

A. No, I don't know, outside of they have said it is for the Kresge Company. * * *

Q. (By Mr. Goerlich, continuing): Metz worked in the same department you did, did he not?

A. That is right.

Q. Was your ware sent through the kilns separately or was it mixed with his ware, or other ware, do you know?

A. It was all sent through together on the same car, but probably in different saggers. I don't know just how they loaded those saggers. * * *

Q. (By Mr. Goerlich, continuing): I am handing you herewith, witness, what have been marked for identification Exhibits 34 to 34-KK. Will you tell us what they are, witness (handing exhibits to witness)?

A. They are my time cards. Do I have to go through all of them?

The Master: No, don't go through them all.

Q. They are time cards that you punched at the Mt. Clemens Pottery Company?

A. That is right.

The Master: Speak up, witness, so that we all can hear you.

Mr. Goerlich: We offer them in evidence.

Mr. Nunneley: If the Court please, we object to the cards for the reason, in addition to the reason that we have brought up on the other cards, the particular reason as to these cards, that there is no showing and it appears on the face of the cards that the majority of them do not

show anything which might in any way demonstrate or prove a violation of the Wage and Hour Act, or that the man worked, under anybody's theory, over the legal limit, and we maintain that all of those cards which do not show that are not competent evidence; that the record should not be cluttered up with them, and that they have no place in this lawsuit. • • •

The Master: I don't think the rules of evidence are being violated in admitting these cards in evidence. I am sure in every case you get proof that is broader than the final decision of the Court. The Court will, after having the proof admitted, separate out certain items and say that those are not necessary to a decision in the case, and there is certainly no violation, in my opinion, of the ordinary rules of evidence here. These cards are all of the same type and even if some of them on plaintiff's theory do not show a violation of the Wage and Hours Act, it doesn't follow that they are not relevant, even if the separation had been made, because what the company's practice, and what the employees' practice is is one of the things that is in issue here. I am not going to permit too much time in argument, because my mind is made up on it. I may be wrong. You have stated your position, you have got your objection, and I will overrule it.

Mr. Cooper: There was one other objection.

The Master: Make it very brief.

Mr. Cooper: This other one has been stated, and I am not proposing to reopen the argument. I want to renew it. That is that the particular cards are not any evidence of the hours worked. • • •

The Master: Go ahead with the questioning of the witness. I will withhold the ruling on the cards until I read this. I am quite sure what my ruling is going to be.

Q. (By Mr. Goerlich): Witness, will you tell us what the time designated, the time appearing on the time card means?

A. The time designated?

Q. The time on the time card, what does that mean?

Mr. Cooper: Objection to the form of that question. It calls for a conclusion.

Q. (By Mr. Goerlich): What does it indicate?

The Master: I will overrule the objection.

A. It indicates the time we started to work.

Mr. Cooper: I move that the answer be stricken on the same ground. It is merely a conclusion. Your Honor wouldn't rule yesterday that you couldn't ask questions about that very thing, and insisted we must state precisely what was done so the Court can make his determination as to what was done.

The Master: I will ask the witness, what do you mean when you say it was the time you started to work?

A. We generally punched our clock and got right in there and got to work; we never wasted any time, that is about the size of it.

The Master: Describe just what your procedure was as you came to the plant in the morning, just what did you do?

A. Before we punched the clock?

The Master: Well, from the time you left home until the time that you started production.

A. I generally came 15 or 20 minutes early and sat down in the dressing room until, if we started at six, we were supposed to punch in at 14 minutes to six, or as near that time as we could, and we would get in line and wait our turn to punch the clock, and if it would be 13 till, or whatever time, and then it would take probably a minute and a half at the most to walk to my job and from there we started right in to work.

The Master: What do you mean when you say you started in to work after you walked to your job? What sort of work did you do then?

A. Prepared the job to work like giving the finisher water and boards; get boards for the finisher. Maybe have to move a truck or oil the jigger up, and start the switch, or throw the switch and get the job running. It would take possibly three minutes. And then we would go right on to production work.

The Master: The witness' statement as to—that he

started work immediately upon punching the time clock will not be accepted as evidence of what he did. The detailed statement of what he actually did will be accepted; that is, the statement that he worked will not be accepted as a conclusion or as binding upon the Court, that he began work, that the employer is liable for at that time. That is the issue in this case.

Q. (By Mr. Goerlich): Now, witness, will you tell us whether or not you ever did any work which does not appear as hours worked on the time card?

A. I have, yes.

Q. Any type of work? Will you tell us what that was?

A. I have changed molds.

Q. Now, will you tell us when that took place?

A. That was back in the latter part of 1938 and '39.

Q. With reference to October, 1938, when did that start? Was it before, or were you engaged in that on October, 1938?

A. When the Wage and Hour Law came into effect.

Q. You were engaged in this work?

A. That is right.

The Master: You mean you were doing the work before the Wage and Hour Law came into effect, or did that start at the time the Wage and Hour Law came into effect?

A. At the time the Wage and Hour Law came into effect. That is when we start watching the time clock and not getting too many hours in.

Q. (By Mr. Goerlich): You say the work was changing molds?

A. That is right.

Q. How long did that continue?

A. Through '39.

Q. Remember what month in '39 that it ceased?

A. Well, probably in October.

Q. October, 1939?

A. That is right.

Q. Now, will you tell us how often you engaged in this type of activity?

A. Practically every week.

Q. How many hours per week did you engage in this activity, witness?

A. An hour and a half, at least.

Q. Never less than an hour and a half?

A. Never less than an hour and a half.

Q. What was the maximum amount that you engaged in this activity?

A. Two hours, two hours and a half.

Q. That does not show on your time cards?

A. It does not.

Q. Will you tell us the reason for that, if you know, witness? • • •

The Master: How did you know that was the reason; did anybody tell you?

A. The foremens told us it was all right to do it.

Q. (By Mr. Goerlich): All right to do what?

A. To punch our clock in and save that time, and do this work that we didn't get paid for on our own time.

Q. Did they tell you why you should do that?

A. Because they had to pay time and a half overtime.

The Master: Is that what he told you? Is that what the foreman told you, or is that your conclusion?

A. They said they would not pay time and a half for overtime.

Mr. Cooper: I renew my motion to strike.

The Master: With his answer having been clarified, I will strike the previous answer given, and permit this answer to stand as to what was told.

Q. (By Mr. Goerlich): You heard some testimony yesterday concerning deductions, did you not, witness?

A. That is right.

Q. Will you state whether or not deductions were made from your wages?

A. There was.

Mr. Cooper: Pardon me, I object to that. First of all, renewing our objection on any testimony as to deductions; secondly the form of the question, I think, is im-

proper. We can't tell what the testimony is referring to. There has been a great deal.

Mr. Goerlich: I will ask him what deductions, and that is all there is to it.

The Master: If he limited the question, you would probably object on the ground it is leading, if he defined the exact type of deductions he had in mind—I will know from his next answer whether or not it pertains to the issue. I think that is a rather super-technical objection.

Q. (By Mr. Goerlich): Will you tell me what deductions were made from your wages by the company?

A. They charged us for sponges, they charged for inspection, crooked ware, a man wheeling out molds, and water pails.

Mr. Cooper: Pardon me. May I ask—as I understand it, the witness refers to sponges, inspection, crooked ware—

The Master: Read it back.

(Answer read.)

Q. (By Mr. Goerlich): What do you mean by "wheeling out molds"?

A. That would be molds that we would break, or old molds on the job that would be thrown on the floor, and they would be cleaned up every day. They would have a man do that.

Mr. Goerlich: That is all, witness. Did the Court make a ruling on the cards?

The Master: I had to follow the witness' testimony and I haven't read this carefully. This transcript seems, or this part of the transcript has the remarks of the Court, in which he says that he might, if he were running the plant, he would expect the employees to get there before 7. I suppose the objection is based on the contention that even if the cards show the employees got there a few minutes before 7, it doesn't necessarily follow that a violation of the Wage and Hour Act is involved.

Of course, just introducing the cards and nothing else

would not convince me of much of anything, but as part of the testimony of the witness, to supplement his testimony, they are certainly proper.

I will admit them and overrule the objections.

The witness: There is one more deduction. Can I state that, too?

The Master: The witness states he wishes to state one more deduction. Go ahead.

A. That is for grinding ware.

Q. (By Mr. Goerlich): Grinding what?

A. Ware.

Q. Grinding ware. What do you mean by that, witness?

A. That would be ware that went through the kiln that would come out with little rough spots on that they would grind off.

Q. One more question I might ask while Mr. Cooper and Mr. Nunneley are conferring here, and that is, did anyone from the management ever advise you as to what time you should punch the clock?

A. One time I had my 42 hours in and I went to the foreman and told him, and he told me I would be doing him a favor if I went out and punched in and went back to work.

Q. What foreman?

A. Robert Fitten.

The Master: What was the name of that foreman?

A. Robert Fitten.

The Master: Fitten.

Q. (By Mr. Goerlich): Were there any instructions concerning daily punching of the time clocks?

A. In starting to work, when we would start, they would come around and say, "14 till," and if it be the afternoon shift and they wanted you to start at a certain time, they would come around and say, "2:31."

The Master: When you say "they," who are you referring to?

A. The foremen in the Mount Clemens Pottery Company.

Q. (By Mr. Goerlich): That is the time that shows on your time clock card; is it?

Mr. Cooper: Objection.

Mr. Nunneley: The cards will show that.

The Master: I will sustain the objection.

Q. (By Mr. Goerlich): Is that the same time that shows on the time card?

Mr. Cooper: Same objection.

A. Not exactly the same time. There may be a minute or two or three minutes difference, depending where you were in line when you punched in.

Mr. Cooper: I move that the answer be stricken.

The Master: The answer seems to me proper. I did not think the question was.

Mr. Goerlich: The witness understood what I meant even if Mr. Cooper didn't.

The Master: You say, "Is that the same as shown on the time clock cards."

Mr. Goerlich: Yes.

The Master: I think I will leave the testimony in. If one stopped to consider carefully each ruling, we would never get a trial finished. You have to have some summary rulings.

Cross Examination

By Mr. Nunneley:

Q. How long did you say you worked there at the pottery, Mr. Larimer?

A. It is the only place I worked in the last 12 years, except in the latter part of January, I worked at Hudson Motor Car.

The Master: Is that January of this year?

A. This year, yes.

Q. (By Mr. Nunneley): You are now employed at the Hudson Motor Car Company, is that right?

A. No, I am not.

Q. You went to work there when?

A. In the latter part of January.

Q. This year?

A. That is right.

Q. This year. And so that starting in January you got a job at Hudson Motor?

A. That is right.

Q. And have been working there until recently?

A. Until I was laid off, I believe a week ago last Thursday.

Q. Yes.

A. Two weeks this coming Thursday.

Q. And prior to that time you had left your employment at the pottery and gone on strike, is that right?

A. Went on strike, that is right.

Q. Then later you obtained some other employment and went to work for Hudson's, that is right?

A. I went out and got work, that is right. . . .

Q. (By Mr. Nunneley): I see. And you also participated in the strike last spring?

A. That is right.

Q. And how long were you out of work at that time?

A. Five weeks.

Q. And you went back to work under the same conditions that were there before you struck, didn't you?

A. Not according to our understanding.

Q. Well, when you got in there you found the conditions just the same, didn't you?

A. They had changed quite a bit after the first strike.

Q. I see. As far as the clock cards were concerned, they were punched and handled just the same as they were before, weren't they?

A. No, instead of coming around and saying 6:16, they would come around and say, "Six o'clock," if they wanted you to start they would say, "Six," they wouldn't say "14 minutes till."

Q. They changed that?

A. That is right.

Q. And told you "Six o'clock." It meant the same thing, didn't it?

A. It meant to start at six, that is right.

Q. It meant the same thing?

The Master: It meant to start what at six?

A. Start work at six.

The Master: What kind of work do you mean?

A. Production or getting the job ready to do the work.

The Master: Did that mean you were supposed to punch the time clock at six?

A. No, that means we could come in before six, but we didn't have to start until six.

Q. (By Mr. Nunneley): At least after the first strike, then you don't pretend that you have any claim after the first strike because the orders then were that you couldn't start to work until six o'clock.

Mr. Goerlich: He didn't say that.

A. They didn't tell us we couldn't, they didn't tell us to start before six.

Q. (By Mr. Nunneley): On the other occasion, your claim is that they told you the time clock would be open at a certain period, didn't they?

A. That is right.

Q. And you could come in at that time?

A. At that time. • • •

Q. (By Mr. Nunneley): If you didn't get in there and get on the job until six o'clock you weren't penalized, were you?

A. Not after the first strike.

Q. Before the first strike?

A. Before the first strike, if you weren't on the job working, the boss would be up and down the line raising "h-e-l-l" until about five minutes to six, at least. • • •

Mr. Goerlich: You mean by "working" running the jigger?

A. That is right.

The Master: Please confine your statements to objections to questions or requests for clarification, rather than directly asking the witness. It is confusing to have two

attorneys asking the witness questions. I will ask, however, what do you mean by "working"; when you say the foreman would raise the devil, if you didn't start working by five minutes to six?

A. If you weren't on the job ready to go to work, or getting your job ready to go to work.

The Master: If you weren't over at your station where you finally worked?

A. That is right.

The Master: Getting ready to work?

A. That is right.

The Master: Or getting ready for production work by five minutes to six, the foreman criticized you?

A. That is right.

Q. (By Mr. Nunneley): Are you an officer of the plaintiff union?

A. I am not.

Q. How long have you been a member of it?

A. Since the first strike, April 14th, if I am not mistaken.

Q. You joined it at that time?

A. That is right.

Q. You weren't a member prior to the first strike?

A. No, sir.

Q. And did you sign a designation to be a party to this suit?

A. I did.

Q. Did you ask others to sign it?

A. I didn't.

Q. How did you come to sign it?

A. Because we were told that it was a violation of the Wagner Act, the way they were doing things.

Q. You were told it was a violation of the law, is that right?

A. Yes.

Q. And you were told that you had some money coming, is that right?

A. Not exactly, no.

Mr. Goerlich: I want to object to this line of questioning. I don't see the relevancy of it.

The Master: I will overrule the objection. It is proper cross examination.

Q. (By Mr. Nunneley): Did you say "Not exactly," what were you told on that subject?

A. We were told that there was a wage and hour law.

Q. Yes.

A. That would take care of cases like that. • • •

The Master: Were any of these conversations that you had which led you to sign this designation, with an attorney representing you, or were the conversations with any attorney representing you?

A. No.

Q. (By Mr. Nunneley) Who were they with?

A. With the union.

Q. With the union?

A. That is right.

Q. Who?

A. Our president.

Q. Mr. Anderson?

A. That is right. • • •

Q. (By Mr. Nunneley): Now, Mr. Larimer, what was said to you about paying the expenses of the litigation?

Mr. Goerlich: Objection.

A. There was nothing said.

The Master: I don't see the materiality of that. • • •

Q. (By Mr. Nunneley): When did you first hear about the suit, Mr. Larimer?

A. Back in April, 1941.

Q. In April, 1941, you heard about the suit. And you had heard about the Wage and Hours Act before that, hadn't you?

A. That is right.

Q. And you had heard that you were only allowed to work a certain amount of time before that?

A. That is right.

Q. And you had heard that there was one period in

which you were only allowed to work 44 hours a week, didn't you?

A. That is right.

Q. And you had heard that there was another period in which you were only allowed to work 42 hours a week?

A. That is right.

Q. And another period under which you were only allowed to work 40 hours a week?

A. That is right.

Q. You had heard that?

A. That is right.

The Master: Of course, all those periods you haven't applied the statement that they were only allowed to work that amount of time on straight time.

Q. (By Mr. Nunneley) On straight time, without being paid overtime in those cases; you knew about that?

A. That is right.

Q. And you also knew and had been told that if you worked overtime, you were entitled to be paid, if you worked over those hours, didn't you?

A. No, because they didn't do that out there. They didn't pay overtime.

Q. I say, you knew that you were supposed to only work 44 hours without getting any overtime; you knew that, didn't you?

A. I knew that was the law.

Q. You knew that was the law.

The Master: You knew under the law you were entitled to time and a half for overtime?

A. That is right. . . .

Q. Well, they used the same method of computing time all during that period, didn't they, all the time after they put the time clocks in, they used the same method, didn't you?

A. Since the Wage and Hour Law went into effect, yes.

Q. The time clocks were in there before that, weren't they?

A. I believe they were.

Q. As a matter of fact, the time clocks have been in there since about 1934, isn't that right?

A. I couldn't state the time.

Q. Well, anyway, they were before November of 1938, weren't they, the time clocks in there?

A. I believe they were. • • • •

Q. (By Mr. Nunneley) During the period that you worked there, you knew how your time was computed, didn't you?

A. That is right.

Q. And you knew that over in the left-hand column, the last column on all of the cards, there was a figure in pencil?

A. That is right.

Q. And you knew that that was the figure—you saw that was there every day, wasn't it?

A. One day you punched in and the next day it was marked down, that is right.

Q. So that on the succeeding day the amount of time that you were credited with the day before was always shown on your card?

A. According to the company.

Q. According to the company's computation?

A. That is right.

Q. And you knew about the law all during that time, didn't you?

A. That is right.

Q. Did you ever ask the company to pay you for that before you started this suit? • • •

A. No.

Q. Did you ever make any complaint to the company?

A. No, because I knew— • • •

Q. (By Mr. Nunneley) So that you never had any conversation with any officer of the company about it at all, did you?

A. Not the hours, no.

Q. The officers were where you could have talked to them, weren't they?

A. That is right.

Q. Now, after November, 1939, you don't claim any extra for changing molds, that is right, isn't it?

A. No, I changed molds for nothing up until they

started to pay for them, possibly around the first part of 1941.

Q. All right, I mean you don't claim there are any hours that are not on the cards?

A. No, I don't.

Q. All right, so so far as hours on the card is concerned, that is a matter that goes back of November, 1939?

A. That is right. • • •

Q. During all the period up there and in the course of your employment the question of paying for changing molds—that has always been one of the things your kind of an employee did without any pay, isn't it, excepting as it is included in his piecework rate; isn't that right?

A. Up until '41. • • •

Q. (By Mr. Nunneley) When was the system changed so that you did get paid for changing molds?

A. As near as I can state around the first part of '41 or the last part of '39.

The Master: After that did you get paid for changing molds?

A. $2 flat rate. • • •

The Master: Let us get these dates clear. He got confused there. You mean the first part of '41 or last part of '40, is that what you are trying to say?

A. That is right. That is when they started to pay.

Q. (By Mr. Nunneley) A new arrangement was made sometime either in the last of '40 or first of '41 whereby you were allowed $2 for changing molds?

A. That is right.

Q. That is right. Prior to that time how many years had you worked there?

A. Around 11 years.

Q. And you had changed molds during all of that period?

A. Not all of it, no. When I first started to work there I did not know what it was to change a set of molds.

Q. How long were you a jigger man?

A. Five years.

Q. That is a—jigger men are the fellows that change the molds, is that right?

A. No. Jigger men and batter-out together.

Q. Jigger man and batter-out together. Were you a batter-out before you were a jigger man?

A. That is right.

Q. How long were you in both of those jobs, then?

A. Batting-out? Five or six or seven years, somewhere around there.

Q. Now, during all of that time that you worked there you say you did change molds?

A. That is right.

Q. That is right. And during all of that time you knew that, at least, that you weren't going to get paid for it, didn't you?

A. When they started making us change every week.

Q. I mean, I say during all of that time you knew you weren't going to get paid for it, didn't you?

A. That is right.

Q. And you knew that as far as the company was concerned that that was a part of your job, to change those molds?

A. When the molds was wore out, yes. . . .

Q. As to this method of computing the time which was followed there, you understood it, didn't you?

A. I understood the method the company had, that is right.

Q. That they paid you, when you went in in the morning, they paid you from the succeeding quarter-hour: that is right?

A. That is the way they figured it, that is right.

Q. And when you went out in the afternoon, they paid you from the preceding quarter-hour?

A. That is right.

Q. They figured your time from that?

A. If we went in there and worked 7 hours, according to their time, worked 7 hours and 40 minutes, their record shows we worked 7 hours.

Q. You never got paid by the hour, did you?

A. That is right. They keep their records by the hour, though.

Q. They keep their records by the hour, but I say you never got paid by the hour?

A. That is right.

Q. You got paid for what work you turned out?

A. That is right.

Q. So that whatever work you did, you have been paid on all your straight time anyway, haven't you? . . .

A. I don't think I ever got paid full pay as long as I worked there.

Q. (By Mr. Nunneley) You don't think you ever got paid full pay. Can you tell us any week you didn't get paid all the money that was coming to you?

A. No particular week, or 2 weeks, you mean?

Q. Any 2 weeks you didn't get paid all the money that was coming to you for all the work you turned out.

A. Every pay I ever worked there, with my deductions out, I never got paid for it.

Q. You worked there 12 years?

A. That is right.

Q. And you never got paid your full pay?

A. My full wage. They always had anywheres from three to five, six dollars deductions.

Q. You understood there was those deductions right along, didn't you, certain things were taken out?

A. That is right, and they would keep adding them on you as you go along, whatever they want to stick on you.

Q. You are still striking, and you want to go back to work for those people, do you?

A. I want to go back to fair conditions, under a good organization, that is right.

Q. Under a good organization, that is fine. And you don't want to pay for these things we are deducting?

A. What I am asking for is my full pay I got coming.

Q. How much an hour did you get over to Hudson's?

Mr. Goerlich: Objection.

A. I don't see that it is material. I will sustain the objection.

Q. (By Mr. Nunneley) Did you punch a time clock at Hudson's?

A. Yes.

Q. (By Mr. Nunneley) Was your time put on the card every day?

A. Every day.

Q. And did they figure it to the minute?

A. They have an agreement with the Union—

Q. (Interposing): I didn't ask you about that; I asked you if they figured it to the minute.

A. They figured it from the 7 o'clock whistle blowing until the 3:30 whistle blowed at night.

Q. They figure from whistle to whistle?

A. That is right.

Q. Regardless when you punched in?

A. Regardless.

Q. Did you punch in before 7 o'clock?

A. Yes, sir.

Q. How long before 7:00?

A. 6:30, mostly.

Q. 6:30. So that you punched in at 6:30 and they only figured you from 7 o'clock, is that right?

A. That is right.

The Master: What did you do between 6:30 and 7:00?

A. I went in and sat down and took it easy till the whistle blowed. Then I got up and put my apron on after the whistle blowed and started work.

The Master: Did you have to be at your station by the time the whistle blew?

A. Supposed to be on the job at 7 o'clock.

The Master: How far was that from the time clock at Hudson's?

A. Oh, I would say five or six hundred feet.

The Master: Were you paid on an hourly basis there at Hudson's?

A. That is right.

Q. (By Mr. Nunneley) So that at Hudson's they allow you a half-hour leeway, is that it?

A. I drove from Mt. Clemens and I allowed myself

plenty of time for flat tires and everything, to get there on time, and if I was a little early, on my way in I passed the time clock and I punched in. I had no reason to come back and punch at 7 o'clock. I was allowed to punch it then.

Q. You knew your starting time at Hudson's was 7 o'clock?

A. That is right.

Q. But you were allowed to punch in at 6:30 if you wanted to?

A. (No audible response.)

Q. Were you allowed to punch in before 6:30?

The Master: Just a minute, you nodded your head to that previous question. Did you mean "yes"?

Read back the question again.

(Question read.) • • •

Q. There is no doubt about this then, your time clock record over at Hudson's, for instance, doesn't show how many hours you work either, does it?

A. No, but I know when I went to work whether I went in there before 7 o'clock or not.

Q. I say, your time clock card doesn't show, does it?

A. Sure it shows how many hours I worked, sure.

Q. 6:30, you punched it at 6:30, you mean it shows you work from 7:00?

A. That is right, it shows I started work at 7:00. • • •

Q. Where do you live, Mr. Larimer?

A. Mt. Clemens.

Q. And whereabouts in Mt. Clemens?

A. 6 Smith Street.

Q. So you are quite close to the pottery?

A. That is right.

Q. Did you walk over there, or drive over?

A. Generally drove.

Q. Generally drove over. And your work on this—you say some deductions were made in your pay at different times, is that right?

A. They were.

Q. Did you say you knew or don't know what they were for?

A. I know what they was for.

Q. You know what they were for?

A. That is right. Most of them, anyway.

Q. Most of them. Did you ever check with the foreman about it, or the management, as to whether they were right or not?

A. When I thought I would be short on my pay, I would go and check with them and find out they had about five or six dollars expense money charged up to me.

Q. And they would tell you what it was for, wouldn't they?

A. That is right.

Q. And one of the things that it was for was grinding ware, is that right?

A. That is one of them.

Q. And, now, just what is meant by that?

A. That is ware that may be clay dirt that they call it in the plant. It goes into the kiln, and it was burned, comes out a little bit rough; they grind it off with an emery wheel, two or three girls grinding—one, two or three girls, whatever they need.

Q. In other words, that is ware that is defective ware?

A. That is defective ware, but we pay for knocking the defects off whether it is our fault or not.

Q. And that has always been the practice ever since you have been there as a jigger man or batter-out, wasn't that right? * * *

A. Since I have been jiggering, I think that has been the practice. * * *

Q. You have worked in other potteries?

A. That is right.

Q. Where?

A. In Ohio.

Q. And how long ago was that?

A. Oh, that is back when I was a boy, 20 years ago.

The Master: What pottery is that?

A. They called it the Porcelain Plant.

Q. (By Mr. Nunneley): Make dishes?

A. That is right; dinner ware.

Q. And, what was your job then?

A. In the packing shed.

Q. Do you know how the jigger man and batter-out and finisher got paid there?

A. Yes.

Q. How was that done?

A. At that time the jigger man got paid, and he paid his finisher and batter-out.

Q. That was the old custom?

A. That is right.

Q. That jigger man hired his own batter-out and own finisher, isn't that right?

A. Yes.

Q. That practice since you worked at Mount Clemens, that practice ever appeared there, is that right?

A. No.

Q. Do you know whether the jigger man also paid for the sponges down there in Ohio?

Mr. Goerlich: Objection.

Mr. Nunneley: I am asking him whether he knew.

A. I don't know.

The Master: I will overrule it.

Q. (By Mr. Nunneley): During the period that you were here, at least most of the period that you were a jigger man or batter out up here, you did pay for some sponges?

A. Plenty of them.

Q. And who bought the sponges?

A. Up until some time in '41 I bought them—the jigger man, rather.

Q. The jigger man?

A. Paid for them.

Q. Paid for them?

A. Charged for them; that is right.

Q. During all the time you were a jigger man that

was a part of the established practice and custom in the plant, wasn't it?

A. As far as I know.

Q. And, did you know that before you went to work as a jigger man?

A. No.

Q. As soon as you got—when you were batter-out do you mean to say you didn't know who bought the sponges?

A. I never paid any attention.

Q. You never paid any attention then, but as soon as you got to be a jigger man you discovered the jigger man had to pay for sponges?

A. That is right.

Q. And the girl who was known as the finisher used them?

A. That is right.

Q. (By Mr. Nunneley): Let's see, witness, over there in that plant there is a store, isn't there; stock room?

A. Stock room.

Q. Stock room, yes.

A. That is right.

Q. And it is in the stock room that the sponges were obtained, isn't it?

A. That is right.

Q. Did you go over to the stock room and get the sponges?

A. I got what I used myself. The finisher got what she used for herself.

Q. So that some of the sponges, at least, you went over and got yourself, didn't you?

A. The type I used, yes.

Q. Yes. And, did you sign for them, or did you just tell the man—

A. (Interrupting): I just told him my name and he wrote my name down.

Q. Told him your name and he wrote your name down?

A. That is right.

Q. So, when you got them, you knew, you expected to pay for them, didn't you?

A. Oh, yes, I knew that.

Q. And the girl that worked with you, she went over and got sponges, is that right?

A. That is right.

Q. And you knew you were expected to pay for the sponges that she got, too, didn't you?

A. That is right. • • •

Q. The finisher kept track of the number of articles that you made. She got paid for the same number that you did? She, or if there was two of them, between them?

A. Not always.

Q. If there was two of them, the finisher or finishers, if there was two, they got paid for the same number you did?

A. That is right.

Q. And the batter-out, he got paid for the same number you did?

A. That is right.

Q. All based on the finisher's count?

A. That is right.

The Master: Just a minute. As a matter of curiosity, how did this finisher make this record? Did she have a pencil in hand?

A. No, they put so many dozen on a board. There is 15 boards on a truck, and the job I worked on mostly, there is three and a half dozen to the board, and 52½ dozen on a truck. They counted by the truck, really. Every time the truck went away, we would count a truck of ware or 52½ dozen.

The Master: What kind of record did she keep?

A. The company had tickets that they would put one duplicate and one original, and as the truck went to the belt, we would get the duplicate back, and they would keep the original.

The Master: So that there was no chance for the girls' records and the company's records to conflict as to production?

A. That is right.

Q. (By Mr. Nunneley): So that if you cared to, anyway, you could keep those duplicates, couldn't you?

A. We generally kept them until after we got paid and then destroyed them.

Q. Why did you keep them until you got paid?

A. To see if we come anywheres near close to what we thought we ought to.

Q. If you discovered you didn't get paid for the number of dozens that you had made, you would make some inquiry about it, wouldn't you?

A. That is right.

Q. And was there ever any occasion when there was an error in it?

A. There have been.

Q. Did they make the errors right?

A. That is right, they did.

Q. You didn't get fired for doing that, did you?

A. No. I am still working—or was. . . .

Q. These sponges, how much did you say the sponges cost the company each?

A. I don't know what they cost the company.

Q. Well, you said a few minutes ago that you were charged twice what they cost. How do you know that, Mr. Larimer?

A. Well, just—

Q. (Interposing): Now, just answer the question. If you don't know what they cost, will you just explain to the Court why you said to the Court that they charged you twice what they cost?

A. Now, they quit charging us for sponges. Mr. Parrot told the girls if they could go out and buy a 10-cent sponge and use it in there, it was okay with them. Yet they would charge them 45 cents. Now, why would they tell the girls to do that, after they quit charging us for sponges?

Q. They never quit charging for sponges, did they? You know they charged the finisher.

A. I thought they allowed them four sponges, and if it went over that, they charged them.

Q. You said you were charged twice as much as the

sponges cost, that you were using. Now you say you don't know what they cost, do you?

A. No, I say I don't know. • • •

Q. How good the sponges was, and all that. Now, what other article do you say there was a deduction for?

A. Water pails.

Q. Water pails, all right. How much of an item was the water pails?

A. That was a small item.

Q. All right.

A. Possibly we would buy a couple pails, maybe two or three pails every four or five months, six months. I don't know just how often. • • •

Q. All right. Now, what other articles were there that you say you were charged for?

A. Offhand, that is all I can think of right now; that is, articles.

Q. All right. Were you working as a jigger man all of 1940?

A. No, 1940—yes.

Q. And who was your batter out?

A. I think William Alband, most of the year. • • •

Q. And how long did he continue; did he continue on over into 1941 with you?

A. That is right, up until some time prior to the first strike.

Q. About how long prior to the first strike was it?

A. There was a period there of possibly six weeks that him and I didn't work together.

Q. I see, and before he worked with you who was the batter out?

A. Before William Alband worked with me?

Q. Yes.

A. Alfred Burgess, Art Hintz.

Q. And does that cover from 1939 on, those three?

A. That probably goes back to 1938.

Q. That probably goes back to 1938, so between those three people they worked with you, and your finisher was who?

A. The last finisher was Pearl Liebzeit.

Q. And how long was she working with you?
A. Since the first strike.
Q. Well, prior to the first strike?
A. Prior to the first strike was a Goldenbogen girl, I don't know her first name.
Q. How long did she work with you as finisher?
A. Oh, five or six months, I would say; I don't know for sure.
Q. And before you had the Goldenbogen girl, who did you have?
A. Grace Vernor.
Q. Grace Vernor?
A. That is right.
Q. And how long did you have her working with you?
A. Well, she worked with me most of the time; I couldn't say off-hand; she worked with me more than any other finisher.
Q. She worked with you more than any other finisher?
A. That is right.
Q. And would that cover all the people we will say from November, 1939, down to the time of the first strike?
A. I think it would from '39, practically all of them anyway, the steady ones. • • •
Q. That is right. And regardless of when you did it?
A. That is right.
Q. Now, we discussed the mold changes this morning, and you stated, I believe, that the reason for making them so that they didn't show on the clock was in order to keep the hours down?
A. That is right. That is one reason.
Q. Yes. Well, that is the only reason you gave this morning, isn't it?
A. That is the only reason I gave so far, yes. • • •
Q. As a matter of fact, during all of those periods as you recall them now, from October, 1938 to October, 1939, according to the method of computation which the company was using, you never were over the time, were you?
A. I couldn't say, but I never aimed to go over. I generally watched my clock card.

Q. And, as a matter of fact, you were always under an hour to two or three hours?

A. Yes. I wouldn't doubt that a bit. * * *

Q. Now, this morning we discussed deductions of things that you bought; all of them, I think. Now, this deduction about grinding ware, what was that? I don't recall that we discussed that. * * *

The Master: I don't know that you definitely stated how that deduction was computed. Was it a flat rate or based on the number of pieces?

A. Well, that was based on how many girls it took to grind this ware per day, and then they took our wages and they divided it up amongst all of us and they took so much off of everybody to pay this girl.

The Master: In other words, it was taken off the wages of those men who were working on the ware that would need this grinding?

A. That is right.

The Master: Pro rata, and the amount that was taken off was the amount sufficient to pay these girls their wages?

A. That is right.

The Master: You were in effect paying for the inspection, or, pardon me, for the grinding?

A. That is right.

Q. (By Mr. Nunneley) Your rate of pay was based on what is known as straight ware, wasn't it?

A. No, it was based on per hundred dozen.

Q. But of straight ware?

A. No.

Q. What kind of ware, any kind?

A. Any kind, as long as you had a hundred dozen.

Q. If they threw them away did you get paid for them?

A. No, we had to make that up.

Q. All right, that is what I am getting at. In other words, suppose you made some ware that was so bad that it had to be thrown away, did you get paid for that?

A. None that was ever thrown away, no.

Q. Well, there was times when there were pieces thrown away, wasn't there?

A. Every day.

Q. Every day a certain amount of that that is spoiled, can't help be spoiled, that is right, isn't it?

A. That is right.

Q. And you didn't get paid for the spoiled ware, that is right?

A. No.

Q. Totally spoiled. Now, this grinding was brought about, or was a process whereby they took some defective ware and made it right, isn't that correct?

A. That is correct.

Q. Made it right. And, instead of throwing it away?

A. That is right.

Q. And the work on that was done by some girls, that is right?

A. By some girls, myself and other people along the line that loaded it into cars or kilns, saggers.

Q. You helped to do the work on the grinding?

A. No.

Q. Well, I was asking you about that. I said the work doing that grinding was done by some girls, or a girl that was employed to do it, that is right, isn't it?

A. That is right.

Q. And your amount of ware, whatever it was, your end of the percentage was taken out as her pay?

A. That is right, a certain percentage out of my pay to pay her.

Q. To pay her, and do you recall how much it was?

A. Not offhand; I have checked up on it and I have found it to be around $1.20, somewhere in that neighborhood, $1, maybe less.

Q. Per pay?

A. Per pay, maybe down to 60 or 70 cents, I don't check up every pay on that.

Q. In other words, it would vary from 50 cents to maybe a couple of dollars, is that it?

A. I don't think it ever went up to $2.00.

Q. Never went up to $2.00 a pay?

A. I would say an average of a dollar, or around a dollar.

Q. That system was in effect during all the time you worked there as a jigger man, wasn't it?

A. I couldn't say whether it was or not.

Q. During all the time you worked there as a jigger man?

A. I think probably during the time I was a jigger man.

Q. Yes, that is what I asked you about. And, what else was there that was deducted besides grinding and these things we mentioned this morning, was there anything else deducted?

A. Wheeling out molds, I don't know whether I went into that this morning or not; was that question asked this morning?

Q. Wheeling out molds, you say that was deducted?

A. That is right.

Q. From your pay. And, during what period was that done?

A. They had a man that done that once every day.

Q. Yes. What was the process of that?

A. It was old molds that we may have broken, or bad molds thrown under the bench, and he goes along and cleans them up. In other words, we used to have to carry these molds out in a pile ourself, and the company hired a man to do it and takes it out of our pay to pay it. That is the size of it.

Q. They reduced your pay that much?

A. That is right.

Q. And before that time you had to do it yourself?

A. That is back quite a number of years ago.

Q. Yes. Of course, during the time that you had to do it yourself—which way cost you more?

A. The way they are doing it now; charging, taking it out of my pay.

Q. That cost you more than it did to have somebody else do it?

A. That is right.

Q. What rate of pay would that man get that takes that out?

A. I don't know. I have asked some of the boys what they got, and I can't just call their name; around 45, 50 cents an hour, 60 maybe.

Q. Now, you were making more than that, weren't you?

A. That is right.

Q. So that if you spent some time taking these things out, you weren't earning anything, or turning out any ware in that time, were you?

A. No. But for 75 cents I could carry a lot of molds out. That is what they deducted off of us.

Q. 75 cents for over how long a period?

A. Well, the group every day one man had to pay that in the whole group as his turn came. I don't know, probably every five or six weeks.

Q. I say, how often would you have 75 cents taken out of your pay to pay that?

A. About every two or three pays. I will say every three pays.

Q. Every three pays?

A. That is right.

Q. So that instead of doing these things yourself every three pays, which would be every six weeks, you would be—you would contribute 75 cents towards somebody else that did it?

A. I didn't contribute it. They took it out of my pay and paid him; that is the size of it.

Q. You understood that was why the money was taken out of your pay, didn't you?

A. I was told they were going to do it. They didn't ask me if they could.

Q. You were told they were going to do it, and they told you why they were going to do it?

A. No.

Q. That is a job which you would—before that time you had to do every day, wasn't it? Take that stuff out?

A. No; every weekend.

Q. Every weekend?

A. That is right.

Q. So that is a weekend job that you didn't have to do when this man was put in?

A. That is right.

Q. Anyway, you understood it was coming out of your pay every week, didn't you?

A. I was told they would take it out.

Q. Yes. And you were told how long before this suit was started would you say that happened?

A. I couldn't give you now the exact date, because I don't remember exactly when they started to take these deductions. That should show on the company records.

Q. I asked you if you knew how long before.

A. I can't set no particular date on that because I don't know.

Q. You continued on working there just the same knowing that these things were to be charged on your pay, didn't you?

A. That is right.

Q. And accepted your money?

A. That is right.

Q. Right along. And did not protest?

A. Oh, I protested but it didn't do any good.

Q. To whom?

A. I never protested to anybody in particular. No foreman or—

Q. (Interposing): No foreman. None of the management of the company?

A. None of the company; that is right.

Q. You did make inquiries about your pay and things without getting fired, didn't you?

A. I have on different occasions.

Q. Yes?

A. That is right.

Q. Now, you were working on a—what they call a two-shift job?

A. I have worked both; two shifts and single. Mostly two shifts, probably.

Q. Mostly two-shift jobs in which you went to work, perhaps, early in the morning?

A. That is right.

Q. For one week, and then the next week you would start in the afternoon?

A. In the afternoons.

Q. Now, which time clock did you use? Would you get the map?

A. That was right there (indicating).

The Master: Marked "A" on the north end of the map.

Q. (By Mr. Nunneley, continuing): That is on the north side, or Church Street side?

A. That is right.

Q. And when you—after you got by the clock did you generally follow the course of this reddish line I am pointing to that goes—

A. (Interrupting): Right out around—

Q. (Interposing): Towards the center of the map, turns to the south?

A. Right out through here (indicating).

Q. Right out through there?

A. I worked probably in this line there.

The Master: Now, for the record, to get this clear on the record, the witness traced the red line down to where it turns just north of what is marked as "Toilets," and then pointed out the first row of mangles as the place where he worked.

Q. (By Mr. Nunneley) And what would be your judgment of the distance of that from your clock?

A. Why, I wouldn't have no accurate way of telling, but I would say, oh, 350 feet, 300.

Q. 350?

A. That is more or less. I couldn't say for sure.

Q. So after punching the clock, you proceeded in the direction you have indicated, some 350 feet?

A. Yes.

Q. And then what did you do next?

A. When I got to my job, my mangle?

Q. When you got to the place there.

A. Generally the first thing I did was start to get ready to go to work. Possibly, on my particular job the first thing I done was oil my jigger up.

Q. Yes.

A. And check my tools.

Q. And check your tools, what do you mean by that? See if you had the right ones?

A. No, to see if you had the right set, to see if the ware was going to be the right weight and one thing and other.

Q. Yes.

A. Then possibly if the batter-out didn't have his work did, then I would help him go get some boards, maybe go get a bucket of water for the finisher, maybe even some ware around. First we prepared to go to work, then just as soon as we got prepared for work, we started right in production work.

Q. Did you take off your coat or your shirt?

A. I generally worked with my shirt off.

Q. You generally work with your shirt off. So you took your shirt off and hung it up?

A. I generally had that off before I even hit my job. You can take that off while you are walking.

Q. You hung up the shirt, I suppose, when you got there?

A. That is right.

Q. And you put your apron on, or didn't you wear any?

A. That is right.

Q. You put your apron on. And to do all those things, what is your best judgment of how much time that would take?

A. Oh, I would say I could leave the time clock and be in there and have my apron on and ready in three minutes, easy.

Q. Easy?

A. That is right.

Q. Without hurrying?

A. Without hurrying too much.

Q. Without hurrying at all.

A. You generally hurry, though, when you are in there.

Q. Generally you hurry to get there, is that right?

A. Yes.

Q. So you could walk the 350 feet and do all those things without hurrying, in three minutes?

A. I didn't state definitely three hundred feet. I said approximately; I don't know how far I could walk, 300 or 350, how long it would take me for sure, but I would say 3 minutes.

Q. You would say 3 minutes?

A. That is right. . . .

The Master: Just list the things you did after you got there.

A. Oiled up the jigger.

Q. Yes.

A. Checked my tools.

Q. Yes.

A. Then if the batter-out had a little work to do, like getting his finisher boards or water, and if he wasn't caught up with his work, I would help him. We got that work done as fast as we could and got on production work.

Q. And those preliminary things would take about how long?

A. That depends.

The Master: How long would they average?

A. Oh, some morning you may spend five minutes, and the next morning may not be over a couple of minutes; it all depends on what you have to do, you may have to go and hunt up boards, you may be short on them.

Q. (By Mr. Nunnoley): So that those things might take anywhere from two to five minutes more?

A. That is right.

Q. And that is something that you haven't any definite knowledge on, on any day, as to how much it did take?

A. I would estimate it at about four or five minutes.

Q. I say you have no definite knowledge on any day, have you?

A. On any day?

Q. Yes.

A. Not any certain particular day, no. * * *

Q. And did you always in this thing, you couldn't do much work unless your batter-out was there, could you?

A. I couldn't do any production work unless he would be there, unless I would bat out for myself, and jigger.

Q. So if he was late or behind you, you couldn't start until after he got there?

A. I could get the job ready for him to start, and be all ready to start when he got there.

Q. And if he was ahead of you he could get the job ready, that is right, isn't it? * * *

A. That is right. * * *

The Master: Would you quit production work at sharp 2:30?

A. Most always.

The Master: Hardly ever before or after?

A. No; sometimes maybe a few minutes before. * * *

The Master: Let me ask the same question with reference to the noon hour, or the lunch hour, I don't suppose it was at noon on your shift, but the lunch time, when you went out to lunch, what time was that that you were supposed to quit?

A. 10:30.

The Master: And what did you do at 10:30?

A. Generally quit right at 10:30, or sometimes maybe a minute before. * * *

The Master: Would you have anything to do then?

A. Wash your hands and get ready to go.

The Master: Any cleaning up, or anything of that sort?

A. No, just drop the job and go. * * *

The Master: What time would you start production work when you came back from lunch?

A. Just as soon as we got in there.

The Master: Would that be before 11 o'clock?

A. Most always.

The Master: How much before?

A. Oh, I would say maybe five minutes.

The Master: So that under your testimony you generally started production work at five minutes before the hour when you came in either in the morning or coming back from lunch, but you stopped production work right on the quarter hour?

A. That is right.

The Master: Without going on five minutes beyond?

A. That is right.

Q. (By Mr. Nunneley): I show you Exhibit 34, witness, and call your attention to the first Monday that is shown on the exhibit and ask you what time you quit in the afternoon of that day, production work (handing exhibit to witness)? . . .

A. I would say 2:30. . . .

Q. (By Mr. Nunneley): And on the next day what time would you say you quit work, production work (handing exhibit to witness)?

A. I would say 2:30.

Q. And the following day?

A. I would say 2:30 every day that week. . . .

Q. I show you Exhibit 34-F, being card for January 30, 1940 (handing exhibit to witness). What time would you say you stopped production work on the first three days shown on that?

A. That would be Wednesday, Thursday, and Friday? Is that these first three?

Q. The first three days.

A. 2:30.

Q. And on the last two days shown on Exhibit 34-F?

A. These down here?

Q. Yes.

A. Two o'clock.

Q. And on the middle five days being the evening shifts shown on Exhibit 34-F, what time would you say you quit?

A. 11 o'clock.

Q. And Exhibit 34-U, being your card for September 10, 1940, what time would you say you ceased work on the first three days that are on there, production work (handing exhibit to witness)?

A. I would say the first day 2:30; the second day

probably a quarter after one; and the third day 2:30. That is production work.

Q. Yes.

A. And, possibly, this might be one o'clock we quit. I don't know.

Q. Either 1 or 1:15?

A. That would be either 1 or 1:15, that is right.

Q. And the last day shown on the card, that would be the rest of that?

A. 2:30.

Q. 2:30. And, now, if you will examine the time you stopped on the night shifts shown on Exhibit 34-U, what time would you say you ceased production work on the first three days of the night shift?

A. Which would you call the night shift here?

Q. This one there, it looks like?

A. 11 o'clock, that is right.

Q. Yes.

A. The first three days, 11 o'clock.

Q. 11 o'clock, and the last two days?

A. Ten.

Q. Exhibit 34-AA, being your card for December 3, 1940, first will you take the day shift that is on there. Can you tell from the card which ones are the day shift and which ones are the night shift?

A. Yes, I believe I can.

Q. Will you tell us during that period or that day shift, what time you ceased production work?

A. 2:30; the whole week, I believe.

Q. Yes. And on the night shift on Exhibit 34-AA, being the same card, will you tell us what time you ceased production work?

A. Monday at 11 o'clock; Tuesday at 10; Wednesday, 11; Friday, 11; Saturday, quarter to 11. That Saturday, that is as near as I can figure here.

Q. (By Mr. Nunneley): Those preliminary things that have just been spoken of, you said a few minutes ago might take anywhere from two to five minutes, isn't that right?

A. That is right; rare cases it might take longer.

Q. Rare cases it might take longer?

A. That is right.

Q. And if it happened that you got on there two or three minutes, or five minutes ahead of the time for starting production, why, you perhaps got them done before that, that is what you want us to understand?

A. Generally always there earlier than that, unless I overslept or something.

Q. And if you didn't get there, you did them afterwards, didn't you?

A. Did them when we got there; generally we were there just as soon as we could get there after 14 till, there was a line ready to punch out, ready to go in to work.

Q. Of course, it was to your advantage as well as the company's that you get started on time, wasn't it?

A. I always liked to be on time.

Q. Well, the more time you got in at production, the more you made, too, that is right, isn't it?

A. That is right. . . .

The Master: Go ahead. Were you, Mr. Larimer, ever given any instructions not to start production work until 6 o'clock sharp?

A. Never. On the other hand, they was down along the lines and if you weren't working by 6 o'clock they would raise heck with you, the foremens.

The Master: If you weren't working by six?

A. There might be an exception a morning or two, but if you made a habit of not being in there on that work, why, they wouldn't stand for it. . . .

Mr. Nunneley: We will offer, so that we may have the matter in the record, to ask this witness to examine the cards, being Exhibits 34 running up to I think it is 34-HH or 34-II, and determine whether or not during any of those weeks, according to his own method of computation, he has any overtime coming.

The Master: Well, that is the same thing that has come up before, and in order for him to do that, he would have to go through the cards and compute the elapsed time be-

tween the times indicated as having been punched in and out on the clock. It would be a matter of many hours for him to determine it. It would be a matter of his making a computation from exhibits that are already in evidence and that speak for themselves.

He has told you, and the plaintiffs have told you in their complaint what their theory is as to the work they have done. He has also amplified that in his testimony, and I won't permit you to ask those questions.

Mr. Nunneley: May we have the benefit of an exception and all the argument that has been made heretofore on that subject?

The Master: Yes.

Mr. Nunneley: Now, we will also offer to examine this witness, card by card, and to show by this plaintiff himself that he has nothing whatever coming under any theory of the case, right out of his own mouth. * * *

The Master: Well, that involves the same thing and I will make the same ruling, and you can have the benefit of the same arguments that have been made and an exception to the ruling that were stated yesterday in connection with the same question with another witness.

Mr. Nunneley: We are making these offers so as to have the benefit of them in the record.

We offer to show by cross-examination of the witness from the cards that this plaintiff has nothing whatever coming in this suit. * * *

The Master: All right; my ruling is that I am not going to permit that. * * *

The Master: Let me ask you this; you testified you did this work of changing molds, I believe it was changing molds, outside the hours shown on the time clock for a period up to November, 1939?

A. Approximately in there.

The Master: It was done outside the time clock hours, as I understand it, or the hours shown on the time clock cards only in those weeks where it appears that your hours,

as shown by the company's method of computation, might go over the legal limitation, or was it done every week?

A. Not necessarily; at this particular time there were two crews changing molds together and we helped each other. I came in early and would help him up to his quitting time, which would be 2:30, and then I would go out and punch in, and I would come in and go to work, then I would be on my regular time; he would probably punch out and come back in and help me until we were done, which would possibly be an hour and a half at the least that wouldn't show.

The Master: What I was trying to get at, what is the amount of time that it took you to do that changing that wouldn't be shown on the time clock cards?

A. Not all of it, half of it possibly.

The Master: Well, sometimes you do the entire job of changing the molds within the time shown on the time clock cards?

A. Very seldom, at that particular time.

The Master: Would you ever do the entire job outside the time shown on the time clock cards?

A. No, it was generally split up. . . .

Q. (By Mr. Nunneley, continuing) There is a certain period where you claim that you did your changing, you say, on the time that is not on the time clock cards; that is right, isn't it?

A. That is right.

Q. And, then, after that period which I believe you said beginning in November, 1939, from then on your mold changing was done in time that was on the time clock cards? . . .

A. Most always. . . .

Q. (By Mr. Nunneley, continuing) I say, I am asking you how it is that you manage to fix the time as being November, 1939, that you stopped doing this work of changing the molds on time that was not on the cards?

A. That is to the best of my judgment back that far. That is quite a ways back.

Q. Yes. Then, I take it you are not sure that it was 1939 that you stopped?

A. It may have been on up until 1940. I was just giving you the benefit of the doubt.

Q. It might have been before that, too, mightn't it?

A. I don't think so.

Q. You don't think so. Did it have any reference as to when there began to be some limitation on the hours that you did work?

A. I don't just understand that question.

Q. I say, did the fact that you stopped doing that have any connection with the time when there began to be some limitation on the number of hours you could work?

The Master: I think this has been covered pretty thoroughly.

Mr. Nunneley: Not along this line at all.

The Master: You asked the same question once before. I am quite sure you asked this morning almost the same question, as to whether it was not true that the company stopped doing this in October, 1938, when the Wage and Hour Act went into effect.

Mr. Nunneley: Well, I am going into how this witness fixes the time. I think I have a right to do it.

The Master: Did the discontinuance of this practice as far as you personally were concerned have any relation as to the coming into effect of a statutory limitation upon hours of work?

A. If I am not mistaken, somewhere around that time they had an automatic flat ware machine, it cut in production, our hours was cut, so we had plenty of time, possibly on a single job we would start to change molds ourselves.

Q. (By Mr. Nunneley) So that the only thing you are going by, then, is the fact that you had plenty of time in the legal number of hours that could be worked without payment of overtime; is that the way you are fixing it?

A. Not exactly. In other words, I was doing a lot of work for nothing, and when I would do it on time off the

card, it made my rate show a lot higher than the rate I was really making.

The Master: I think this has been gone into enough.

• • •

Q. (By Mr. Nunneley) What I was going to ask when I was interrupted was whether you tie it up to the time when you had ample hours within the legal limit within which to do it without getting over?

A. That may have something to do with it.

Q. It may have something to do with it. Witness, did you ever receive any money from the company for which you did not work?

A. Oh, I have received a couple bonuses and a couple vacation pays. I should have one coming now.

Q. And that didn't have anything to do with hours worked, did it?

A. The company, Mr. Doll has told us that the employees shared in a part of the company profits, earnings. That is the reason why we got that bonus.

Q. I say, you didn't work any hours for that, did you?

A. No.

Q. And you got that on how many occasions during the last—did you get it in 1940 twice?

A. I believe we got a bonus and a vacation in 1940.

Q. Did you get it in 1939?

A. We got a vacation.

Q. Do you know how much it was?

A. Yes, between $39 and $40. A week's pay.

Q. Each time it was between $39 and $40, is that right?

A. That is the vacation pay.

Q. As a matter of fact, what was the amount you got at the end of the year?

A. The last one was the same as my vacation pay, the last bonus check, a week's pay. I don't know about the first one. I can't remember. • • •

The Master: What was this money you were paid, how was it paid to you?

A. Well, the understanding on the bonus money, the way Mr. Doll explained it to us, that it was a part of the company earnings they returned to us, so evidently we must have worked for it.

The Master: When you say "your understanding with respect to the bonus money," who called it "bonus money"?

A. It was never called "bonus money," I don't believe; I believe it was called a share in the earnings of the company, if I am not mistaken.

The Master: Was there a notice posted on the board when you were going to receive it?

A. That is right, yes.

The Master: And how did they refer to it on the bulletin board?

A. I don't remember any more, I couldn't tell. * * *

LILLIAN SOCIA, was thereupon called as a witness on behalf of the Plaintiffs herein, and having been first duly sworn, testified as follows:

Direct Examination

By Mr. Goerlich:

Q. State your name, please.

A. Lillian Socia.

Q. And your address, please?

A. 1356 Glenwood.

Q. You are an employee of the Mt. Clemens Pottery Company?

A. Yes, I am.

Q. Will you tell us whether or not you were an employee in October, 1938?

A. Yes, I was.
Q. When was the last day that you worked at the Mt. Clemens Pottery Company?
A. The 22nd of November, 1941.
Q. 1941. And did you or did you not work continuously from October, 1938, to November, 1941?
A. I did.
Q. Will you tell us what department you worked in?
A. In the brushing and dipping department.
Q. Will you describe the nature of that department?
A. Of the brushing and dipping?
Q. Yes, the type of work performed there.
A. Well, they dip the ware in one part of the department and the other department they brush the sand off of ware to get it ready to dip.
Q. What do they dip it in?
A. In a liquid glass.
Q. And where do they obtain the ware which is dipped after it comes from the bisque?
A. From the clay shop.
Q. It comes from the clay shop?
A. Yes, and then it is fired and it comes from the bisque belt.
Q. And what was your specific job?
A. I did work on the cup machine.
Q. Will you tell us what your specific job was between October, 1938, and November, 1941?
A. Well, I worked on two different jobs during that time.
Q. Will you tell us how long at each job?
A. I worked about two and a half years on the cups, on the cup machine.
Q. With reference to October, 1938, how long did you work on the cup machine?
A. About two and a half years.
Q. From 1938, October, 1938?
A. About two years.
Q. And when did you start working on the other, — what was the other job?

A. In about the 1st of November I was put on brushing, of 1940.

Q. Prior to that time you were on the cup machine?

A. That is right.

Q. What was the nature of your duties?

A. I was a sponger and taker-off on the cup machine.

Q. On the cup machine. And the dipping, what was the nature of that?

A. That was a machine I worked on. The dippers dip the ware.

Q. What is done with the ware after you are through with it?

A. Well, after they are through dipping it, and the girls sponge it, and two other girls take it off at the end of the machine, and then it is placed in saggers and fired again, put in kilns.

Q. Do you know what happens after that?

A. Then it goes into the chipping department after it is fired.

Q. It goes to the shipping department?

A. Chipping.

Q. What do you mean by that?

A. Well, the girls chip little edges off, rough edges off the bottom of the ware.

Q. Then do you know where it goes after that?

A. Some of it goes into the decorating, to be decorated, and some of it is shipped out just plain ware.

Q. How many girls work in this department?

A. About 50 girls work in the—well, there is about 60 or 65 altogether in the brushing and dipping department.

* * *

Q. Witness, I am handing you here what has been marked for identification Plaintiff's Exhibits 35 to 35-LL. Would you look at these and tell me what they are?

A. They are my time cards. * * *

Mr. Goerlich: I offer Plaintiff's Exhibits 35 to 35-LL.

Mr. Cooper: We make the same objection to these as

to the others, if the Court please; first, as to all of them, that they are irrelevant and immaterial, being no record of hours worked, no evidence of hours worked, but only an attendance record. Secondly, we object particularly to some of them on the grounds that even on any theory, they show on their face no overtime worked.

The Master: I will make the same ruling as before and admit them into evidence.

Q. (By Mr. Goerlich) Now, will you tell us what you did when you first went to the plant in the morning, witness?

A. Yes. Came in, took my coat off and went down to the clock.

The Master: Speak out so everybody can hear you in the room.

A. And I punched the clock. Some time it was 6:31 and some time it was 6:46 we punched in.

Q. (By Mr. Goerlich) Were you told what time to punch the clock?

A. We were.

Q. Who told you?

A. The boss; the foreman of our department.

Q. What time did he tell you to punch the clock?

A. Well, some time he would tell us to punch it 15 minutes earlier, which would be 6:31, but most of the time we went in at 6:46, unless he told us to punch it earlier or later.

Q. Tell us what you did after you—

The Master: (Interposing) Just a minute, let me ask this. Who was your foreman?

A. Ernest Harms.

The Master: Ernest Harms?

A. Yes.

The Master: When did he give you these instructions?

A. He would tell us at night, the night before.

The Master: Did he do it at any particular time, or did he do it from time to time throughout the entire period?

A. Well; sometimes we would work steady for two months, punching in at 6:46. Then some mornings he would tell us to punch in at 6:31.

The Master: Then if there was a change again in the time you were to come to work, he would tell you at that time, he would tell you when to punch in?

A. Yes, he would.

Q. (By Mr. Goerlich) Now, will you tell us what you did next after you punched the time clock in the morning?

A. Then we went in and got our brush, put our finger cots on. I put my finger cots on mostly on the way going in. And put our apron on and went to work directly after we got in there.

Q. Now, when you say you went to work, tell us what the work was that you did?

A. Well, up until—when I went out on strike, I was brushing at that time, and that is what I would do, sit down and brush.

Q. Sit down and brush?

A. Yes.

Q. Tell us how much time expired between the time you punched the time clock and the time you started brushing?

A. Well, I would say about two minutes, two and a half minutes, not more than that.

Q. Did you ever observe any girls in the department coming in after the time you were told to punch the time clock?

A. Oh, yes, some of them did come in a little bit later.

Q. They did?

A. Some didn't get in there until eight minutes to seven, or even five minutes to seven sometimes. * * *

The Master: It seems like hearsay. With respect to any of these girls, did you ever hear the foreman to tell them to go home for being late?

A. Yes.

The Master: Which one?

A. Goldie Bernacki.

The Master: When did that incident occur?

A. I don't remember just when, but she was working with me at the time.

The Master: Well, about how long ago was it, a year ago or two years or three years.

A. Well, it is about two years ago.

The Master: And what happened on that occasion?

A. Why, she came in a little bit late. We had just started to work. It was before 7 o'clock, and he told her she was late and she had to go home.

Q. (By Mr. Goerlich) Did she leave then?

A. What is that?

Q. Did she leave then?

A. Yes, she did.

Q. (By Mr. Goerlich) Did you see any of the other girls leaving?

A. Yes, I did.

Q. You did see them leaving?

A. Yes.

Q. Did the foreman ever advise the employees concerning the time they should be there, or concerning the fact they would be sent home if they didn't get there at a certain time?

A. No, only that he told them—he insisted that they punch in at 6:46.

The Master: Did he tell what would happen to you if you didn't?

A. Yes.

Q. (By Mr. Goerlich) What did he say?

A. He said if they didn't get in there when the rest of them did, they would have to go home. He would have to give them a day off.

Mr. Cooper: I move that that be stricken unless the time is more definitely fixed.

The Master: When did he say that?

A. Oh, different times.

Q. (By Mr. Goerlich) While you were—

A. While I was working for him.

The Master: Within what period?

A. Oh, within the last three years.

The Master: Did he tell that to you personally, or did he tell it at a group meeting?

A. He told it at a group meeting.

The Master: Meeting of the department, or meeting of the entire plant.

A. Meeting of the department.

The Master: You say he told you that, told the group that on several occasions?

A. Yes.

The Master: Well, I think that that type of testimony, why, she has fixed it as near as she can. That is all that is required. If it were a single incident, I would try to get her to fix it more definitely.

Mr. Nunneley: I move it be stricken. The date, and time, and place, is not fixed. • • •

Q. (By Mr. Goerlich) Will you tell us whether you worked on a piece work or hourly rate?

A. Well, it weren't either. It was called gang work.

Q. Will you tell us what you mean by that?

A. Well, everybody worked together, and their pay was divided up.

Q. How many worked together? The whole department?

A. Yes, all the dipping girls and the brushing girls.

The Master: And, what was the pay of the whole department based upon?

A. How we were paid. • • •

Q. In other words, there were three classifications in this department, the dippers and the dipping girls and the brushers?

A. Yes.

Q. Is that correct?

A. Yes.

Q. Did the dippers work the same hours as the dipping girls?

A. Yes.

Q. And the brushers?

A. Yes, they did.

Q. Every one in the department worked the same hours?

A. Yes. Sometimes the brushers were through 15 minutes early, and sometimes the dippers were through 15 minutes early.

Q. Now, can you name some of the brushers?

A. Yes, I can name a lot of the brushers.

Q. Will you name some of them for us?

SUMMARIZE FROM LINE 1, PAGE 1292, THROUGH LINE 8, PAGE 1294, AS FOLLOWS:

"Susie Crewe. Marion Setty; Loraine Jackson, Elsie Graham; Margaret Henry; Margaret Dekiere; Leona DeBussehere; Irene Miller; Wilma Redlowski; Ilene Snyder. Those include both brushers and dipping girls. Among the men dippers were Steve Anderson, Howard Bliemeister, Louis Thurman, Nelson Luchtman. That is all I can think of right now. Counsel for plaintiffs state their purpose is to get before the Court the persons who are similar to the witness. Counsel for defendant moved to strike on the grounds that giving the names of other persons in the same department is not evidence as to the hours claimed to be worked by such persons. Master rules that he does not see much relevancy but will let the list stand."

Cross Examination

By Mr. Cooper:

Q. I would like to get a little more information, Mrs. Socia, as to the nature of the operations in the brushing department. Was the ware brushed before or after it had been dipped?

A. It was brushed before it was dipped.

Q. And you used a hand-brush to brush it?

A. Yes.

Q. You sat on a stool while you were doing the brushing?

A. Yes.

Q. Did you use one kind of brush or were there various kinds of brushes that you used for various kinds of ware?

A. Just one kind of brush on the ware I brushed.

Q. Did you use the same particular brush every day?

A. Yes.

Q. And did you use the same stool every day?

A. Yes—no, not every day, somebody would take mine and I would take somebody else's; it didn't make any difference.

Q. There was a stool that you considered as your stool?

A. Yes.

Q. The one you usually used?

A. That is right.

Q. Perhaps it fitted you a little better than some of the other stools?

A. That is right.

Q. I think you said that Wilma Redlowski was in that same department?

A. Yes, she worked on cups, dipping machine.

Q. She was a dipper's helper?

A. Yes.

Q. Did a girl named Olga Denisink, did she work in that department?

A. Yes, she did.

Q. What was her job?

A. She was a cup-brusher.

Q. She was a cup-brusher; and did Lia DeKieve, work in that department?

A. Leah DeKieve, yes, she did.

Q. What was her job?

A. She was on a cup machine, dipper's assistant.

Q. She was a dipper's assistant. Then was there a girl named Leona Gottschalk; apparently that was her maiden name, the same girl known as Leona Snyder?

A. Yes, she worked in there.

Q. What division was she in?

A. I think she worked on a spraying machine. . . .

Q. As I understand it, since about November of 1940, your work has been in this brushing department?

A. That is right.

Q. And prior to that you worked, I think you said, on a cup machine?

A. That is right.

Q. Were you a dipper's helper at that time?

A. That is right.

Q. What was the nature of the work done during that prior period by you?

A. I sponged the cups and took them off.

Q. You sponged them after they had been dipped, or before?

A. After they had been dipped.

Q. Was there anything else that you had to do in connection with that job, or was that the entire operation, taking a cup after it had been dipped and sponging it off?

A. No; part of the day we would—two girls would sponge the cups after the dippers dip them, and part of the day they would take them off, placing them on boards, 7 dozen on a board.

Q. I see, after they had been sponged and a number accumulated they would be placed on a board?

A. They would have to be taken off the other end of the belt and put on the board as fast as they came down.

Q. After you sponged them?

A. After we sponged them they went through a heater and the two girls down at the other end took them off and put them on a board.

Q. And you would be doing both those things, sponging

and taking them off the belt and putting them on the board, is that right?

A. Part of the day I would sponge them and part of the day I would take them off.

Q. I see. Now, in general are the places of work of the dippers close together and the places of work of the brushers close together, or are the dippers and brushers all inter-mixed?

A. No, they are not; the dippers are—work by themselves.

Q. They work by themselves?

A. Yes, they are on one side of the department and the brushers are on the other side of the department.

Q. With reference to the time clock, which side of the department are the dippers on?

A. Well, I would say they are on the north side of the department.

Q. Would that be further from or closer to the time clocks?

A. About the same. It is just a small space in between the dippers and the brushers.

Q. Do you know where Steve Anderson worked in the department?

A. Yes, I did.

Q. Now, with reference to the time when you were a brusher, was Mr. Anderson's work stationed a little closer to or a little further from the time clock?

A. I would say a very little closer.

Q. How long have you worked for the pottery, Mrs. Socia?

A. Since June, 1937.

Q. And you worked up until November of 1940?

A. That is right. * * *

Q. I see. You had worked for this pottery at some other period?

A. Yes, I had.

Q. What was the earlier period?

A. 1915.
Q. You say 1915. How long did you work after 1915?
A. I worked there until 1919.
Q. 1915 to 1919. And, then, did you leave at that time?
A. Yes, I did.
Q. And subsequent to 1919 were there any other periods when you worked for the pottery company prior to 1937?
A. Yes, I worked there a short time in 1923.
Q. You said, I think, that you lived on Glenwood Avenue?
A. Glenwood Road.
Q. Glenwood Road. Is that in Mt. Clemens?
A. Yes, it is.
Q. About how far is it from the pottery plant?
A. About three miles.
Q. Beyond walking distance?
A. Oh, yes.
Q. How did you usually get down to the plant in the morning?
A. I rode down with another girl.
Q. What was her name?
A. Margaret Yocum.
Q. Margaret Yocum; in her car?
A. In her car.
Q. Did you ride with her practically every morning?
A. I did.
Q. What department did she work in?
A. In the dipping on cups.
Q. Did she live out in your neighborhood some place?
A. Right close by.
Q. About what time would you usually leave home in the morning?
A. 6:30.
Q. I take it you figured on getting down there a little before a quarter to 7:00?
A. Oh, yes.
Q. Did it sometimes happen that you would be want-

ing to get down there by about 14 minutes to 7:00 and she would be wanting to get down at 6:31?

A. Oh, yes.

Q. On those days I suppose you would leave a little earlier so that you would be there in plenty of time for her to go to work?

A. That is right.

Q. And if you got down there before you could punch in the time clock for your department, what would you do while you were waiting? * * *

A. Oh, I would sit out by the clock and wait until it was time.

Q. Talk to some of your friends, I presume?

A. That is right. * * *

Q. Showing you now Exhibit 30, I ask you whether you entered the plant on the north side at the point designated on this exhibit as employees' entrance (indicating)?

A. Yes, that is right.

Q. And the cloakroom that you referred to, I ask you whether that is the area marked "Cloakroom" at the extreme right-hand side of the plant?

A. At the right-hand side? It would be at the left-hand side as we came in.

Q. Yes. I think the exhibit shows that to be the witness' left-hand side.

The Master: That is right.

Q. As she came down the aisle indicated by the red arrow.

A. Yes.

Q. Then did you punch your time clock at the point indicated on the exhibit as "Time Clocks B"?

A. That is right.

Q. How many time clocks were there during the years 1938, 1939, and 1940?

A. One.

Q. One. It was some time in the spring of 1941 that a second time clock was installed?

A. I think it was then. I couldn't say just when they installed it.

Q. Then after you punched this time clock, would you indicate, please, on the exhibit, the path that you would normally follow to get over to the place where you worked in the brushing department?

A. Yes. Come up through here (indicating).

Q. I don't want to interrupt you, but to get this on the record, perhaps I can try to explain where you are pointing to, and correct me if I get it wrong. You would proceed a short distance right down an aisle just beyond the time clock?

A. Yes.

Q. Was that quite a wide aisle?

A. Yes, it was.

Q. Then you would turn to your left?

A. Yes.

Q. Through a doorway?

A. Yes.

Q. About how wide was that doorway?

A. Oh, I would say four feet or four and a half.

Q. You think the doorway was four or four and a half feet wide?

A. I think so.

Q. Then you would pass right next to a place marked "Storage"?

A. I think that is what they used it for.

Q. At least it is marked "Storage'" on the exhibit here.

A. Oh, yes.

Q. And where was it that you would make your turn after that?

A. I would come through another door and then make my turn.

Q. Would you turn at the point indicated by my pencil here, being separated from the place marked "Storage" by a place marked "Kiln"?

A. Yes.

Q. Would you go by one kiln or two kilns?

Mr. Goerlich: Go between them, wouldn't you?

A. Between them, yes.

Q. (By Mr. Cooper) As I understand, you go between; you go by the first kiln and turn to your right and proceed toward the west side of the plant?

A. Yes.

Q. Is there quite a wide aisle for you to walk in between those two kilns?

A. It was plenty wide.

Q. About how wide was it?

A. I would say three and a half, four feet.

Q. How many persons could walk in it abreast?

A. Two could walk in.

Q. If it was three and a half feet, wouldn't two abreast make it a rather tight squeeze?

A. I don't know. There is often two went in. I don't know if it was a tight squeeze or not. I guess they could just make it.

Q. Probably ordinarily they would walk through one abreast, wouldn't they?

A. Sometimes they would; sometimes they wouldn't.

Q. About how far would you proceed down this aisle between the two kilns we have just discussed?

A. Well, down to the bridge.

Q. Would that be a bridge going over the belt in the glost loading department?

A. Yes.

Q. There would be quite a few people going over that bridge at times in the morning?

A. Sometime there would and sometime there wouldn't.

Q. Would the bridge slow things up a little as you were getting through there?

A. No, it didn't slow things up. They just kept right on going.

Q. About how high was the bridge?

A. About 2 feet.

Q. So there would be steps up it?

A. Maybe three steps up and down.

Q. How wide was the bridge, about?

A. The bridge was narrow.

Q. That was not as wide as the aisleways?

A. No.

Q. Would you say people could walk two abreast on the bridge?

A. No.

Q. Only one abreast on the bridge?

A. That is right.

Q. In fact, that was no wider than necessary for one person to get through, was it?

A. They could just get through, because there was a big pipe over the top of it, and you could never go over that bridge, they would have to stoop under to get across, one person would.

Q. Even if a single person was crossing that bridge, you would have to duck your head?

A. That is right.

Q. To clear some overhead pipe as you went across it?

A. That is right.

Q. Then after you crossed the bridge, would that land you, Mrs. Socia, in the place which is about the middle of the plant here, in another aisle?

A. Yes.

Q. By the way, about how far would you say it was down this aisle between the two kilns into the bridge?

A. Oh, around 200 feet, I would think. • • •

Q. About what distance would you say that would be walking from the glost loading over along this aisle between the dipping and the chipping departments?

A. Oh, I would say about 50 feet. From the glost—oh, it wouldn't be that far. It was just about 25 feet, hardly that, I guess, from there.

Q. It was about 25 feet, you estimate, from the glost loading belt—

A. Yes.

Q. (Continuing) —to a door through which you would enter the dipping department, is that right?

A. Yes. • • •

Q. Now, as I understand it, everyone in the brushing and dipping department worked about the same hours?

A. Just about.

Q. And normally the employees in those departments would be punching in between 6:46 and 7 o'clock?

A. That is right.

Q. Were there other departments using that same time clock which customarily punched in between 6:46 and 7:00?

A. Sometimes they would.

Q. What were some of the other departments that might be coming in at that time?

A. Oh, the glost belt.

Q. Any others?

A. That is all I can think of now.

Q. The decorating room girls come in at that time?

A. No, they didn't come in the same time we did.

• • •

Q. (By Mr. Cooper) How about the glost ware room, would that sometimes come in during this interval?

A. I never noticed them.

Q. You didn't have an opportunity to observe the various employees who might be punching in at the time clock between 6:46 and 7:00 on any particular morning, is that right?

A. That is right; I didn't pay any attention to who else was going in.

Q. Or just what they were doing?

A. Only our department that I go in with them, and I didn't pay any attention just what time anybody else did go in.

Q. Now, did you testify that you overheard a foreman having a conversation with Goldie Bernacki?

A. I did.

Q. And what is the name of the foreman?

A. Ernest Harms.

Q. By the way, do you remember when he became foreman of the department?

A. I think it was July of 1940, I am not positive.

Q. What kind of work was Goldie Bernacki doing at the occasion that you overheard this conversation?

A. She was taking off cups.

Q. And what kind of work were you doing on that occasion?

A. Taking off cups.

Q. This conversation then occurred before you started in as a brusher?

A. Yes.

Q. That must have been prior to November of 1940?

A. Yes.

Q. And Ernest Harms was the foreman?

A. That is right.

Q. And would you say then that the date of this conversation was some time between July and November, 1940?

A. It must have been.

Q. It wouldn't have been any later than November, 1940?

A. No, because I wasn't working there.

Q. Do I understand that you and Miss Bernacki were both engaged as dippers' helpers on the cup machine at this time in question?

A. Yes.

Q. What time of the day did the conversation take place?

A. Just before 7 o'clock.

Q. You can't remember what kind of a day it was, how the weather was that day?

A. No, I don't.

Q. Do you happen to remember what type of cup you were making that day, the color of it, the design, or anything of that sort?

A. It could have been ivory ware. I was working on the ivory machine.

Q. And Goldie was working on the ivory machine, too?

A. Yes.

Q. Do you think that you probably were making ivory colored cups?

A. It could have been ivory or yellow. We done yellow on that machine, too.

Q. Did you change about quite frequently from one machine to another?

A. No, I didn't.

Q. During how long a period were you working at this particular machine?

A. I don't remember just how long I worked on that machine.

Q. Would you say you were working at it during the whole period between July and November, 1940?

A. No, I wouldn't. * * *

Q. Did you have any idea in trying to think back over the change-overs from one machine to another, whether it was likely in the summer or the early winter when the conversation occurred?

A. No, I wouldn't, I wouldn't remember.

Q. Let me ask you whether, when you were working on the yellow machine, there were a number of different kinds of cups that could be made on that machine? Were there different shapes of cups?

A. Yes, they could.

Q. What shape of cup were you making on the morning of this conversation?

A. I wouldn't remember.

Q. What time did you come in that morning?

A. Oh, I always came in on time. I was never sent home.

Q. You were in there 6:46 every morning?

A. I wouldn't say positive 6:46. It might have been 6:47.

Q. You think it might have been 6:50?

A. I don't know.

Q. That you punched in?

A. I don't know. I don't remember.

Q. You think it is conceivable that you might have punched in at 6:50 that particular morning?

A. I wouldn't say. I don't know. * * *

Q. Just what time of morning was it that this conversation occurred?

A. Just before 7 o'clock. I wouldn't say just how soon before 7.

Q. Did you wear a watch while you were working on this machine?

A. No, I didn't.

Q. Was there a clock up at the department?

A. Where I could see it from there.

Q. And you had arrived there, I take it, that morning before Miss Bernacki?

A. Yes.

Q. And what time did the dipper come that morning?

A. I couldn't say. I expect that he was there on time.

* * *

The Master: What did the foreman say? What were his actual words to this girl?

A. He said, "You will have to take a day off." He said, "You are late.'

And she told him she weren't late. She said it weren't 7 o'clock. He said, "You will take the day off." He said, "You come in too late." He said, "You are to be in here sooner than that."

The Master: Did you look up at the clock at that time to see it?

A. I did.

The Master: What is your best recollection of the time it was?

A. Well, it weren't 7 o'clock because the whistle hadn't blown.

The Master: How much before 7?

A. I wouldn't say. Between five minutes to 7.

The Master: Between five minutes to 7 and 7 o'clock?

A. And 7 o'clock, yes.

Q. (By Mr. Cooper) The warning whistle had blown, then, I presume?

A. I expect it had. I am not positive.

Q. You don't remember about that?

A. No.

Q. And it didn't impress you particularly, looking at the clock, just what minute the clock showed?

A. No, not just what the clock showed. I know it weren't 7 o'clock.

Q. Was it an electric clock?

A. Yes.

Q. And as I understand it, you say that Miss Bernacki replied to Mr. Harms, "It isn't 7 o'clock yet"?

A. That is right.

Q. She figured she wasn't late?

A. Yes, she did.

Q. As long as she got there in the department by 7 o'clock?

A. And ready to work at 7, she weren't late.

Q. That was your understanding, too?

A. Oh, yes.

Q. She had rung in the time clock that morning, I presume?

A. I expect she had. That is what they all done.

Q. And then she did go home?

A. Yes.

Q. Anything else you remember of the conversation?

A. No, that is all there was.

Q. And the best you can fix it for time would be between July and November, 1940, is that correct?

A. I am not positive of that, but I think that must have been about the time.

Q. Do you think it might have been in 1939?

A. It could have been, but I thought it was 1940.

Q. Your best recollection is between July and November, 1940?

A. Yes.

Q. Mrs. Socia, I would like you to look at Exhibit 35-F, the same having been identified as your time clock card for the pay period ending April 8, 1941. What time did you ring in the time clock on the first morning indicated?

A. On the first line?

Q. On the first line.

A. 6:50.

Q. What time were you supposed to ring in that morning?

A. I suppose 6:46.

Q. It would be some time after 6:50 that you actually got over to your department that morning, I presume?

A. I suppose it was.

Q. Mr. Harms was still foreman during this week?

A. That is right.

Q. Did he say anything to you about being late that morning?

A. No.

Q. Did he ever say anything to you about being late?

A. No.

Q. Now, another girl who worked in your department, if I recall this correctly, was Olga Denisuik?

A. Yes.

Q. And another one was Lia DeKiere?

A. Yes.

Q. And another one was Wilma Redlawsk?

A. Yes.

Q. And they were all supposed to come in at 6:46 that morning, were they?

A. I don't know about Wilma and Lia. It is possible they came in 7:01 or 6:31. They didn't just that time; not that I know of. * * *

Q. Showing you, Mrs. Socia, what has been marked for identification as Exhibits 36, 37 and 38, purporting to be the time clock cards for the pay ending April 8, 1941, of Wilma Redlawsk, Olga Denisuik and Lia DeKiere, let me ask you what time, according to these exhibits, these three girls came in that morning?

A. 6:50, 6:51 and 6:50.

Q. And would you say they were all supposed to punch in at 6:46 that morning?

A. That is right. * * *

Q. (By Mr. Cooper): Now, all the brushers, I think you said, went in together?

A. Mostly.

Q. That is within the limits of the period between 14 minutes to 7 and 7 o'clock, or do you mean that they would all be right next to one another in line at the time clock?

A. Some time they would and some time they wouldn't.

Q. They might be more or less interspersed with employees from the dipping department proper?

A. Well, some time they—some time there would be a line-up and some time they would just come in scattering in, as soon as they got in they would come in.

Q. They might be in with some glost belt employees?

A. They could be.

Q. Or with the chippers?

A. Possibly.

Q. You would not know then on any particular morning what time various other brushers punched in the time clock?

A. No, I wouldn't know what time they did.

Q. On this one occasion, I believe, by the way, is the only time that you can specifically recall hearing any foreman upbraid an employee for coming late?

A. That is right.

Q. Now, going back, Mrs. Socia, to Exhibit 35-E, your pay card for the period ending April 8, 1941, that is the one I showed you a minute ago and you pointed out that you came in that morning at 6:50; after you rang the time clock that morning and started over for your department, did you see any of the other brushers who were also coming into work?

A. I suppose I did, I don't remember.

Q. I suppose if you did you would say "Hello" to them?

A. Maybe.

Q. And if there was anything special you wanted to ask them about you might ask them about it?

A. I don't remember, maybe.

Q. You sometimes did, I dare say, is that correct?

A. Well, walking right along, might have been talking.

Q. And suppose that you happened to notice some-

body a little ahead of you in the line to whom you wanted to speak, perhaps you could say a word or so to them if you wanted to ask a girl about something who was a little ahead of you in the line?

A. Maybe, if I wanted to hurry up and catch up to her and ask her something.

Q. You might have wanted to speak to somebody who was behind you in the line?

A. Maybe.

Q. As a matter of fact, there was quite a bit of talk among the girls going through the time clock there, was there not?

A. No, not so much.

Q. How much of a line-up would there be at the time clock?

A. Well, sometimes there would be 40 or 50, and sometimes there would be only 10 or 15, sometimes not that many.

Q. I suppose if there were 40 or 50 lined up there would be a certain amount of conversation?

A. As they went along, I suppose.

Q. And then these different girls might be working in different departments, as they walked along through the aisleways that you have described here, is that right, and different ones would stop off at different places?

A. They would leave the line and go into their department, is that what you mean?

Q. That is right; if you happened to be in the middle of a sentence with one of the girls who worked in another department and she came to her doorway, I presume you would wait at least long enough to finish up the sentence, didn't you?

A. No, we never done that; we just hurried right in.

* * *

Q. You wouldn't even finish your sentence?

A. We weren't allowed to stand around.

Q. You never tried it, I understand from what you told me, is that right?

A. No. * * *

Proceedings of February 26, 1942.

LILLIAN SOCIA was thereupon recalled as a witness herein, and having been previously duly sworn, testified further as follows:

Cross Examination (Continued)

By Mr. Cooper:

* * *

Q. (By Mr. Cooper) Mrs. Socia, as I remember you said yesterday that you estimated it was about 200 feet down the aisle between the two kilns along the red line on Exhibit 30, where you said you walked in walking over to the brushing department, is that right?

A. Yes.

Q. Now looking at the map, if that is approximately 200 feet down that aisle, would you say that it was nearly half that distance from the time clock to the point where that aisle begins?

A. I said it was about 200 feet all the way in. * * *

Q. The whole distance then would probably be something over 200 feet?

A. It may be a little over; I never measured it, I wouldn't know exactly.

Q. Do you think it might be 500?

A. No, I don't.

Q. Do you think it was as far as a city block?

A. No, I don't.

Q. Do you think it was half as far as a city block?

A. No, not quite. * * *

Q. (By Mr. Cooper, continuing) By the way, do you know how fast you walk a mile, Mrs. Socia?

A. No, I don't.

Q. Do you know whether you can walk a mile in fifteen minutes?

A. I never timed myself.

Q. Do you think it might take you fifteen or twenty minutes, or don't you have any idea?

A. I don't have any idea.

Q. In any event, when you walked into work through the path you describe in the pottery here, did you walk in as fast as the others going in with you?

A. Yes, I did.

Q. I think you said yesterday that sometimes you punched in at the time clock with others in the dipping department?

A. That is right.

Q. If the exhibits in evidence indicate that on some days you punched in at the same time as Mr. Anderson, for example—

A. (Interrupting) Possibly I did.

Q. (Continuing) —would you say that you walked down this path to the dipping and brushing department as fast as he did?

A. Yes. Maybe a little faster.

Q. Maybe a little faster. It would take you both about the same amount of time, or perhaps you would be a little faster?

A. I expect.

Q. As I understand you changed from the cup machine over to the brushing division in November, 1940?

A. About that time.

Q. About that time. And, it was some time before that that you overheard a conversation that you described between Miss Goldie Bernacki and Mr. Harms?

A. That is right.

Q. As far as you can recall I think you told me yesterday it was between July and November of 1940?

A. That is what I said, and I said possibly it could have been 1939. I weren't positive.

Q. But your best memory was between July and November?

A. That is right.

Q. Mrs. Socia, I show you Exhibits 39-I through

39-W for identification, purporting to be the time cards of Goldie Bernacki for the weeks between June 25th, 1940, and November 26, 1940. (Handing exhibits to witness.) I wish you would look them over quickly and see whether there is any day that she punched in without being credited with hours worked. * * *

A. No, not in there.

Q. (By Mr. Cooper) Would you say, then, Mrs. Socia, that it couldn't have been between that period that this conversation occurred?

A. No, it couldn't have; I weren't positive, as I told you.

Q. You said yesterday you thought it might have been somewhat earlier than that?

A. May have been.

Q. I show you now, Mrs. Socia, Exhibits 39 through 39-K, purporting to be time clock cards of Miss Bernacki for the period from January 9, 1940, to June 11, 1940. I ask you to look those over and see whether it refreshes your recollection as to whether the instance occurred during that period. * * *

Q. (By Mr. Cooper) Would you say now, Mrs. Socia, that at any morning between January and July, 1940, Goldie Bernacki was sent home about 7 o'clock in the morning for punching in late?

A. No, not on those cards. It could have been another time. I am not positive. * * *

Q. (By Mr. Cooper) Yesterday, you fixed it as being—you were fairly sure—between July and November, 1940?

A. Fairly sure, but not positive.

Q. And you are sure now it wasn't between July and November, 1940?

A. Well, it couldn't have been, it doesn't show on the cards.

Q. And it couldn't have been any time before July, 1940, could it?

A. I don't know just when, if it is not on those cards.

The Master: I might say for the record that I checked through the last group of cards shown the witness, and find that there are cards for every two-week intervals between the dates about which the witness is questioned.

Q. (By Mr. Cooper) Do you think it might be that Miss Bernacki was sent home for some other reason than being late?

A. No, I don't.

Q. But you know that now this incident that you describe couldn't have occurred during the year 1940?

A. Not during that time, but there was a time she was sent home for being late.

Q. Have you any idea now as to when the time was?

A. Well, according to those cards, I just wouldn't remember, if it is not on there. . . .

The Master: I remember there was a change in November, 1940; was that your testimony yesterday?

A. Yes.

The Master: So could it have occurred after November, 1940?

A. No, because I never worked up there after that.

. . .

Q. Whatever it was, at least it didn't happen within a year of when you thought it happened did it?

A. It couldn't have, according to the cards. . . .

Q. This might possibly have happened back in 1937?

A. No, it didn't. It happened after Ernest Harms became boss.

Q. And he became boss, I think you said, in July, 1940?

A. I said 1940, but I would like to make a correction. I believe it was 1939 he became boss.

Q. Now you think he might have become boss in 1939?

A. Yes. I were not positive yesterday.

Q. Would you think it was probably some time in 1939 or 1940 that this occurred?

A. Yes.

Q. But you couldn't fix the date in any way between those two years?

A. No.

Q. You are satisfied it wasn't in 1940, anyhow?

A. No, it couldn't have been, according to the cards.

* * *

Q. (By Mr. Cooper) I show you, Mrs. Socia, Exhibit 39-X to 39-B, time clock cards for Goldie Bernacki for November and December, 1939 (handing exhibits to witness). * * *

Mr. Cooper: Might I suggest, or perhaps ask for a ruling from the Court, that it appears that none of the time clock cards for this period from November 14 to December 31, 1939, are missing, among those which were shown to the witness.

The Master: Well, it appears that way. * * *

Q. (By Mr. Cooper) Do you think the incident to which you refer, Mrs. Socia, might have happened on Exhibit 39-AA, when Goldie Bernacki punched in at 6:33 and didn't punch out again?

A. I don't know.

Q. You think it might have been that date?

A. I don't know.

Mr. Lamb: Hasn't she been questioned about this?

Q. (By Mr. Cooper) You don't know when it was, that day or not?

A. No.

The Master: She has been questioned, but I wondered if it couldn't have been 6:33 in the morning, is that right, could it have been 6:33?

A. No, I don't think so. * * *

Q. (By Mr. Cooper) To finish this up, Mrs. Socia, you say now that you were mistaken yesterday when you placed the time of this incident as between July and November, 1940?

A. I could have been.

Q. Well, you were, were you not?

A. Yes, according to the cards.

Q. You were mistaken in placing it between July and November, 1940, were you not?

A. Yes.

Mr. Lamb: That is as far as checking—

Mr. Cooper: (Interposing) Would you please let me finish my examination. The witness answered the question.

The Master: She answered the question.

Mr. Cooper: And counsel need not—

The Master: (Interposing) I think it is a fair question.

Q. (By Mr. Cooper) As a matter of fact, it didn't happen any time in 1940, did it?

A. Well, according to the cards I looked at, it didn't.

Q. It didn't happen any time in 1940, did it?

Mr. Lamb: She has answered the question.

A. I say no, according to the cards, I don't think it did.

Q. (By Mr. Cooper) Now, Mrs. Socia, do you say that the incident did or did not happen between January and July, 1940?

A. I couldn't say. I wouldn't remember.

Q. Is there any doubt in your mind, as a matter of fact, that it did not happen during that period?

A. I don't remember.

Q. (By Mr. Cooper) As a matter of fact, you don't remember anything happening at all, do you, Mrs. Socia?

A. I do remember she was sent home at one time after coming in just before 7 o'clock.

Q. That is all you can remember about it?

A. Yes. I don't remember the date or the year exactly.

Q. You don't remember the year it happened?

A. No.

Q. And, you don't remember whether anybody else was there or not?

A. There weren't anybody else there when she came in.

Q. You don't remember who the man was on the machine at that time?

A. No, I don't. We had a change of dippers quite often.

Q. I think you said yesterday, Mrs. Socia, that Mr. Harms gave you instructions when to punch in in the

morning, appearing on page 1280 of the transcript, that the Master asked the question:

"Just a minute, let me ask this, who was your foreman?

A. Ernest Harms.

The Master: Ernest Harms?

A. Yes.

The Master: When did he give you these instructions?

A. He would tell us at night, the night before."

That correctly reflects your testimony, does it not?

A. Yes.

Q. And you said, did you, that Mr. Harms insisted that you punch in at 6:46?

A. Yes.

Q. And you said that you always came in on time?

A. As near as I could.

Q. You said yesterday, I think, did you not, Mrs. Socia, that you always came in on time?

A. Yes.

Q. Do you still say that?

A. Yes.

Q. Mrs. Socia, I would like to show you now Exhibits 35-F, 36, 37 and 38, the same being time clock cards for the week ending April 8, 1941, of yours, Wilma Redlawski, Olga Denisuik and Leah Dekiere. Do they indicate that on that morning you punched in at 6:50?

A. Yes.

Q. And Wilma Redlawski at 6:50?

A. Yes.

Q. And Olga Denisuik at 6:51?

A. Yes.

Q. And Miss Dekiere at 6:50?

A. That is right.

Q. You said, I think that on some mornings most of the girls in the brushing department would punch in at the time clock together?

A. Yes.

Q. There was probably one such morning?

A. Could have been.

Q. A number of you punched in about the same time that morning?

A. It could have been.

Q. On the days when there was a number of you punching in the same time, there was a certain amount of a lineup at the time clock?

A. At times.

Q. There were how many in the line waiting for the time clock sometimes?

A. Oh, some time 50, sometimes 15.

Q. Sometimes 50. Do you think there were ever more than 50?

A. Yes.

Q. Sometimes more than 50?

A. I think so.

Q. As many as 100 some days?

A. No, I don't think there was—about, maybe, sometime. . . .

Q. Now, on the first date here on your time card for the week ending April 8th, when you punched in at 6:50, you then proceeded, did you, to the brushing department?

A. Yes.

Q. Do you remember whether or not you talked with any of the other girls in the department that morning?

A. I wouldn't remember.

Q. You don't remember whether you were talking with these girls with whom you punched in, or not?

A. No.

Q. Do you remember whether or not that morning the file down that aisle between the two kilns was single or double?

A. I wouldn't remember that.

Q. Well, you testified yesterday, I think, that there was sometimes a double file passing through there?

A. Some walked double and some walked single, I said.

Q. You mean that on that morning, as near as you can remember, some of the girls were walking two

abreast and others were walking single file down that aisle, is that right?

A. I wouldn't say that morning, no. I said sometimes they walked two abreast and some time they walked single.

Q. If some of them were walking two abreast that morning and you got down to that bridge you described over the glost belt, where you could only walk single file, there would be normally a slowing up as you were getting over the bridge?

A. No, no slow-up; there never was a slow-up.

Q. You say that on some mornings a number of girls would be walking down this wider aisle, three and a half or four feet wide, two abreast?

A. That is right. Some of them would and some of them would go single.

Q. And that procession, when it got to the bridge over the glost belt, would march over the glost belt?

A. Yes.

Q. And you could only walk single file over that bridge?

A. Yes.

Q. The girls, then, who were walking along double file, would have to hesitate a moment while one stepped ahead of the other and they walked single file over that bridge?

A. Well, if there was too many walking two abreast, you might have to do that, but there was never that many.

Q. It was really a bottleneck right there, wasn't it?

A. They never had to hesitate to go over the bridge.

Q. If the procession had been moving double-file, there would have been a bottleneck as they came to the single file bridge?

A. Well, if they all were, yes.

Q. Supposing half of them were?

A. They never had to hesitate at the bridge.

Q. So that the procession, you think now, was a single file procession down that aisle?

A. Not exactly; sometime two abreast and sometime single. They didn't all walk in the same.

Q. If you were talking with somebody, you might walk two abreast?

A. Maybe.

Q. To talk more easily?

A. Maybe.

Q. Then you proceeded from this bridge over the glost belt to the brushing department, did you?

A. That is right.

Q. Then this business of walking down the aisle, perhaps talking with some girls, getting over that bridge and getting over to the brushing department, that would all take a certain amount of time?

A. It wouldn't take any longer if you were talking than if you weren't talking, because you kept right a-going.

Q. It would take a certain amount of time to get there?

A. Certainly.

Q. And when you got to the brushing department, you would go and get your brush?

A. Grabbed it on the way in.

Q. Where were the brushes kept?

A. We used to keep them on our chair, and then after while we kept them in the cupboard.

Q. You kept them in a cupboard?

A. Yes.

Q. How large was that cupboard?

A. Just a very small cupboard.

Q. How many girls did you say were working in the brushing department?

A. I would say about 35.

Q. You say the cupboard was, oh, how high, 3 feet high?

A. Oh, handy to reach it; I don't know just how high it was.

Q. Was it something like a broom cupboard?

A. No, just a little cupboard tacked up on a post to keep the brushes in.

Q. Did all the girls keep their brushes in the cupboard?

A. I think they did.

Q. Would there be a foreman or watchman standing at that cupboard in the morning as the girls took out their brushes?

A. Oh, yes.

Q. As a matter of fact, only one girl could reach in at a time to get her brush, with that small cupboard?

A. No, they could all reach in, three or four reaching at once.

Q. Three or four could reach at once to get a brush?

A. Yes.

Q. Probably not more than three or four?

A. No, I don't think so. * * *

Q. (By Mr. Cooper) Going back to this morning, the first indicated on your time clock card for the pay ending April 8th, you punched in at 6:50 and then you went down this aisle. Now, can you say how long you spent going down the aisle and over to the brushing department that morning?

A. I couldn't say exactly that morning.

Q. And then you went and got your brush out of this little cupboard?

A. Yes.

Q. And after you had your brush, then did you go and get your stool?

A. My stool was always right where I left it.

Q. Unless, perhaps, some other girl had gotten there before you and gotten it, is that it?

A. That was very seldom.

Q. You don't remember whether it happened that morning, that some other girl had gotten your stool before you got there?

A. No, I wouldn't remember that.

Q. If somebody else did have your stool, I suppose you would try to get the next most comfortable stool that you could find?

A. Never looked around. Just took the next one.

Q. It didn't make any difference to you? If you couldn't get yours it did not make any difference what kind of stool you had, is that right?

A. We weren't allowed to look around. We had to take the next one that came along.

Q. As a matter of fact, isn't it true that after you got your brush you looked around there to find your stool, and if you found somebody else just taking it you would remind them that that was your stool, would you not?

A. I suppose.

Q. And after you got your stool then you had a pillow that you sat on, did you not?

A. Yes.

Q. And you would fluff that up, would you not?

A. No, we didn't take time to do that.

Q. And then you put your finger cots on—you put your finger cots or tape on, didn't you, Mrs. Socia?

A. Usually put my finger cots on on the way going in.

Q. Put your finger cots on on the way going in. How many finger cots did you use?

A. Oh, about four.

Q. Used about four finger cots—on one hand, or—

A. (Interrupting) No. On two hands.

Q. Two of them on each hand?

A. That is right.

Q. Would you take those home with you at night?

A. I did.

Q. Carry them in your pocketbook or some way?

A. That is right.

Q. And as you walked along in the morning between the time clock and the brushing department you would put your finger cots on?

A. Mostly.

Q. Sometimes you used tape instead of finger cots, didn't you?

A. Once in a while.

Q. And when you used tape you used to tape up all the fingers on both hands, didn't you?

A. No.

Q. How many fingers would you tape up when you used tape?

A. Only when I had a sore on my finger I would put a little piece of tape on.

Q. Isn't it so that before the spring of 1941 you used to tape up several fingers on both of your hands?

A. No. I used finger cots.

Q. If others there said that you ordinarily used tape instead of finger cots—

A. (Interrupting) But we didn't.

Q. (Continuing) Would you say they would be lying?

A. We weren't allowed to use tape instead of finger cots only if we had a sore finger.

Q. If you had any skin trouble you would sometimes put tape on the palms of your hands and on your wrists, would you not?

A. No. I never put it on the palms of my hand and my wrist.

Q. You are positive you never put any tape on the palms of your hands and on your wrist?

A. I might have put some on the palm of my hand if I had a sore on it from wearing out. • • •

Q. For the period going back prior to the time of the first strike now, I want to fix the period clearly in your mind, say from November, 1940, up until about April, 1941, isn't it true that you customarily used tape on your fingers?

A. No, it isn't.

Q. Did you quite frequently during that period use tape on your fingers?

A. Oh, I suppose I did once in a while.

Q. Once a week, perhaps?

A. Maybe.

Q. Maybe once a week; that would take some time to put the tape on, wouldn't it?

A. Oh, it would take a little bit of time. • • •

Q. That was adhesive tape, was it?

A. That is right.

Q. On those days you used tape you would use it just like you use the finger cots, two fingers on each hand?

A. No, I used finger cots, I didn't wrap my fingers with it.

Q. Are you positive you never put tape on your fingers during this period, April, 1940 to April, 1941?

A. I suppose I did put some on.

Q. (By Mr. Cooper) Some of the girls did use tape?

A. Yes.

Q. On all their hands, all the fingers of their hands?

A. I think there was a couple of them did do that.

Q. (By Mr. Cooper) Is this (indicating), the sort of finger cot you used, Mrs. Socia?

A. No, sir.

Q. What was yours like?

A. Black ones.

Q. Like this (indicating)?

A. That is right.

The Master: Can you pick out four of the type you would use?

Is there a thumb cot there?

A. These are (indicating).

The Master: Pick out four of the type that are nearest to the ones that you would use.

A. These are about the kind.

The Master: And see how long it takes you to put them on. All right, Mr. Cooper, she is beginning now, if you want to time this.

Mr. Cooper: Exactly 12:15 and 15 seconds.

(Witness puts on finger cots.)

Mr. Lamb: Through.

Mr. Cooper: It is exactly—

Mr. Lamb: (Interposing) 18 seconds.

Mr. Cooper: Exactly 22 seconds.

The Master: Well, we don't dispute about four seconds.

Q. (By Mr. Cooper) You were sitting down, of course, as you were putting those on now, Mrs. Socia?

A. As I was putting them on just now, yes.

Q. Walking along, you couldn't manage them quite as fast, could you?

A. Maybe not.

Q. Where did you have them, in your pocket book as you punched in at the time clock in the morning?

A. Some of the times I had them on when I punched in.

Q. On days you didn't would you pull them out of your pocketbook as you walked along? * * *

(The four finger cots above referred to were thereupon marked as Exhibit 43, by the reporter.)

The Master: Did you pick finger cots of about the type you used, or did you pick large ones so that you could put them on faster?

A. No, if I went in to buy them, I would pick them to fit right.

The Master: You were having much more difficulty with the first ones you picked than with the last ones?

A. Oh, yes.

The Master: I was just wondering the reason for that.

* * *

Q. I think you told the Master some of the girls used tape rather than finger cots?

A. That is right. I didn't. * * *

Q. These girls who used tape, did they tape up their entire finger with tape?

A. Some of them did. * * *

The Master: Put tape on in the morning, and take it off at night, and put on new tape the next day?

A. No, she would have to put on new tape by noon, because it would be all worn out.

The Master: It would just last till noon, and then she would tear that off and in the afternoon put new tape on?

A. Yes.

The Master: Would they wind it around once or wind it around a number of times? * * *

A. Yes, they would.

The Master: Go ahead.

Q. (By Mr. Cooper) Mornings when you did put tape on, would you follow, Mrs. Socia, the method that you described that these other girls used?

A. Winding it around?

Q. Winding it around?

A. Just give it one little wind around, if I had a sore on the end of my finger.

Q. (By Mr. Cooper) Now, is it not also true, going back to this morning of April 8th, Mrs. Socia, that after you got into your brushing department and got your brush and got your stool and got your pillow and had the finger cot on and had tape on, if you put tape on that morning, that you put on an apron?

A. Yes, I put an apron on.

Q. Then you would turn on your light, would you?

A. No, the light was usually on.

Q. The light was usually on; then would you be ready to sit down and begin brushing?

A. That is right.

Q. Now, on this morning on April 8th when you punched in at 6:50, can you tell me just what time it was when you completed these operations and started brushing?

A. Oh, about two minutes it took me.

Q. That is your best guess, isn't it?

A. That is right.

Q. As to how long it took?

A. That is right.

Q. It might have varied somewhat, I presume, from one day to another?

A. Very little.

Q. It would vary somewhat from one day to another?

A. Very little.

Q. And so far as setting a time for any particular day, the best that you can do would be to make an estimate based on an average?

A. Yes.

Q. Now looking again at these exhibits which I showed you a few moments ago, 35-F, 36, 37 and 38, what is the earliest that you punched in that week, Mrs. Socia?

A. 6:49.

Q. And the latest?

A. 6:50.

Q. Looking at Exhibit 36, the card of Wilma Redlawski indicates that she also punched in at 6:49 or 6:50 every day during that period?

A. That is right.

Q. And Olga Denisuik varied from 6:49 to 6:51?

A. That is right.

Q. And Lia Dekaire varied from 6:48 to 6:50?

A. That is right.

The Master: I want to ask you one question, witness. You said, when these finger cots were first given to you and you started to put them on your fingers, that you would have to have a thumb cot for your thumb, and then the whole box was given to you and you picked out four after that?

A. That is right. . . .

The Master: Are all of these what you call thumb cots?

A. That is right, because these (indicating) are kind of small for the thumb, they are hard to get used to. . . .

Q. (By Mr. Cooper) Mrs. Socia, I show you Exhibits 7, 40, 41, and 42, the time clock cards for the pay ending Oct. 29, 1940, of Lillian Socia, Lia Dekaire, Wilma Redlawski and Olga Denisuik. What time did you punch in on the first morning indicated on the time clock card?

A. 6:53.

Q. And Miss Dekaire?

A. 6:53.

Q. And Wilma Redlawski?

A. 6:53.

Q. And Olga Denisuik?

A. 6:53.

Q. And you all worked all day that day?

A. Yes.

Q. You weren't criticized for having come in too late?

A. No.

Q. Then showing you now, Mrs. Socia, Exhibit 35, your time clock card for the pay ending November 12, 1940. What is the earliest that you checked in during that two week period?

A. 6:51.

Q. And what is the latest?

A. 6:54.

Q. And you say Mr. Harms insisted that you punch in at 6:46?

A. That is right.

Q. During this period indicated by this last exhibit that I showed you, October 29, 1940, you were working as a dipper's assistant in the dipping department during that period, were you not, Mrs. Socia?

A. I may have been doing cast ware at that time.

Q. Well, I think you said that as far as you remember, it was some time in November, 1940 that you transferred from the dipping department to the brushing department?

A. That is right.

Q. During most of September and October, 1940, you were working as a dipper's assistant?

A. That is right.

Q. And as I understand it, your operation there was to sponge the cups after they had been dipped?

A. That is right.

Q. Was the purpose of that sponging to remove any excess glaze which might have adhered to a cup?

A. Yes, it was.

Q. When you were on that operation, you couldn't start sponging until the dipper was there to do some dipping, could you?

A. No.

Q. Now, you felt free, did you not, Mrs. Socia, during the time you were working as a brusher here, to leave your bench whenever you wanted to?

A. Oh, whenever we wanted to go to the dressing room or to get a drink.

Q. Or to talk with other employees?

A. Yes, at that time. * * *

Q. You would, though, during the day, on an occasion you wanted to, feel free to leave your work, did you not?

A. To talk to people?

Q. For any reason that you wanted to?

A. Oh, if we wanted to go to the dressing room, we could go.

Q. Do you recall having Mr. Harms, the foreman, direct your attention to the fact that you were spending an awful lot of time away from your bench?

A. I do not.

Q. Mr. Harding?

A. No, sir.

Q. Do you recall any supervisory employee remonstrating with you over that situation?

A. Over talking to somebody?

Q. Over spending too much time away from your bench?

A. No, I never had.

Q. Would you say that you had never been criticized for that practice?

A. No, I haven't.

Q. You haven't?

A. Not for being away from my work.

Q. Mentioning the names of Mr. Harding or Mr. Harms doesn't refresh your recollection as to any particular instance?

A. They never criticized me for being away from my work.

The Master: You mean by the way you say that that they criticized you for something else?

A. That is right.

The Master: What was that?

A. Oh, for talking to a girl one time. * * *

Q. Showing you again Exhibit 7, Mrs. Socia, directing your attention to the figures appearing in the extreme right-hand column, have you seen those figures before (handing exhibit to witness)?

A. I see them now.

Q. Have you seen them before?

A. I suppose I have.

Q. Isn't it true, as a matter of fact, that every day when you picked up your time clock card the figure for the preceding day would be written in this column?

A. That is right.

Q. On the right-hand side. And you knew what that indicated, did you not?

A. Yes.

Q. That indicated, for example, that on the first day the company computed your working hours as 7¾ hours?

A. Yes, the way the company computed it.

Q. And on the second day 8 hours?

A. That is right.

Q. And you knew how that was computed, did you not?

A. Yes, I did.

Q. And how long had you known that?

A. I knew it all the time.

Q. All the time you were working there?

A. Yes. • • •

Q. Did you ever complain to Mr. Doll, the superintendent, or the foreman, during the time you were working there that you had worked longer hours than that?

A. No. We knew better than that.

Q. You didn't complain. Now you knew, did you not, Mrs. Socia, that there was a reduction in the number of hours of work during the last three or four years? There was a time, wasn't there, when the work week was 45 hours a week?

A. Not. 45. • • •

Q. In 1938 there was a reduction to 44 hours, was there not?

A. That is right.

Q. Well, and then down to 42 hours the year after that?

A. That is right.

Q. And then down to 40 hours?

A. Yes.

Q. Now—

The Master: (Interposing) Did you ever work over time by the way the company computed your time, do you know, since the Wage and Hour Law was in effect? * * *

A. No, I didn't.

Q. (By Mr. Cooper) Were you given instructions not to work more than forty hours a week?

A. When it was forty hours.

Q. And not more than 42 hours a week when it was 42 hours?

A. That is right.

Q. And not more than 44 when the limit was 44 hours?

A. That is right. * * *

Q. Well, you don't know then as a matter of fact, whether or not there were weeks since 1938 when you worked overtime, according to the company's computation?

A. No, I don't. * * *

Q. (By Mr. Cooper) Now, during these periods, when the number of hours, as you said, were gradually cut from 44, and then to 42, and then to 40, was there a falling off in your average weekly earnings?

A. I don't remember.

Q. Do you remember whether or not your average weekly earnings in 1939 were as high or higher as they had been in 1938?

A. I wouldn't remember.

Q. Do you remember whether in 1940, you earned as much or more as you did in 1939?

A. I wouldn't remember that.

Q. Do you remember any pay increases during this period since 1938?

A. No, I don't. * * *

Q. Now, did you ever hear anything about the restitution of back wages under the Wage and Hour Law in the latter part of 1939?

A. No, I didn't.

Q. Did you know whether or not you received such a restitution in 1939?

A. I received a small check, I think, in 1939. . . .

Q. (By Mr. Cooper) How much was the check? About four or five dollars?

A. I think so. . . .

Q. Showing you Exhibit 29-D, Mrs. Socia, does that look like a carbon copy of your signature?

A. Yes, it does.

Q. This, as a matter of fact, is the paper you signed at the time you got that check for $4.76, is it not?

A. It must be. I don't know. . . .

Q. (By Mr. Cooper) Mrs. Socia, are you Secretary of Local 1083 of the United Pottery Workers of America?

A. Financial-Secretary.

Q. Financial-Secretary. What are your duties as such?

A. Oh, to take in the dues.

Q. Did you regularly attend the meetings of your Local?

A. I did.

Q. Did you as financial-secretary keep any record as to the proceedings at such meetings? . . .

A. No, I didn't; I am not the recording secretary.

Q. (By Mr. Cooper) Do you know whether such a record was kept?

A. Yes, there was.

Q. By the recording-secretary?

A. Yes.

Q. Who is the recording-secretary?

A. Right now it is Eva Freddle.

Q. How long has she been the recording-secretary, how long has Eva Freddle been recording-secretary?

A. Oh, about two months, I think.

Q. Who was the recording-secretary before that? . . .

A. I don't remember. . . .

Mr. Nunneley: We will ask at this time that at the next session they produce the minutes of the meetings of the period from 1939 on.

Q. (By Mr. Cooper) Do you remember any prior incumbent in the office of recording-secretary of the Local, going back to January, 1941?

A. Just what do you mean by that?

Q. Well, do you remember the name of anyone who during the last year has held the office of recording-secretary of the Local?

A. No, I don't.

Q. Do you attend meetings of the local quite regularly?

A. Yes, I do.

Q. Did you attend any such meeting about the time of the strike in April, 1941? * * *

A. I did.

Q. Was there a discussion at those meetings of the bringing of this suit?

Mr. Lamb: Objection. * * *

The Master: I suppose that that is a material question.

Mr. Lamb: Discussions about strikes, discussions about filing of the suit have already been submitted to other witnesses and your Honor has held that it was not material.

The Master: I don't think it came up in that form.

Mr. Nunneley: It didn't come up that way. We maintain those matters are material.

Mr. Lamb: It is no difference between a fishing expedition, a notorious anti-labor employer—

The Master: I don't know it was as to what the reputation was. Hasn't Judge Picard settled the question of authorization?

Mr. Lamb: Judge Picard has already ruled on the matter of authorization in this case. He said those people filed their designations, the designations have been filed.

Mr. Nunneley: Concerning the authorizations it is competent, and also on their question of motive of bringing in the suit.

As a matter of fact, your Honor recalled yesterday while we were here in court, counsel who was then rep-

resenting the plaintiff, made a suggestion that we settle this suit, and said, "Why don't you settle it and sign a contract with the Union?" That is why we maintain this suit is brought; the motive for the bringing of the suit.

Mr. Lamb: Is that why you are defending it so that you won't have to bargain?

The Master: Just a minute, now. This question—

Mr. Nunneley: (Interposing.) It is right in here, and counsel admitted it yesterday.

The Master: It has already been brought up, and I said if you would cite some authority on it I would go into it; and, ordinarily, I would take testimony subject to the objection if I weren't sure about the ruling, but I don't like to do it about an issue of this type unless I know where I am going, where we are getting off into somewhat collateral matters. * * *

The Master: I will take the evidence on the question of the athorization of the union to bring the suit, without ruling on whether it is admissible evidence, pursuant to Rule 43-C, I believe, or Rule 43 of the Rules of Federal Procedure. Go ahead. It will be taken subject to objection by the plaintiff, and I won't rule upon its admissibility at the present time, but will rule upon it later. * * *

Q. (By Mr. Cooper) I think you said, Mrs. Socia, that you attended a meeting of the union at about the time of the strike?

A. Yes, I attended several of them. * * *

Q. Were minutes kept at the meetings which you attended?

A. Mostly.

Q. Did you ever hear them read?

A. Yes, I have heard them read.

Q. They would be read at the beginning of each meeting, would they? That is, were the minutes of the preceding meetings read?

A. Yes, when they were read, they were read before the meetings.

Q. And would they contain a report of various resolutions that had been offered and voted upon by the membership?

A. Yes, they would.

Q. Did Local 1083 of the United Pottery Workers have an executive board?

A. Yes, they did.

Q. Were you a member of the executive board?

A. I was. I am.

Q. You are now?

A. Yes.

Q. Have you been since the first of January, 1941?

A. Yes, but we did have an acting financial secretary for a while.

Q. How long have you been a member of the executive board?

A. Since October 12, 1939.

Q. Does Local 1083 have any by-laws?

A. They do.

Q. Do you have a copy of those?

A. No, I don't.

Q. Does Local 1083 have a constitution?

A. Yes, they do.

Q. Do you have a copy of that?

A. No, I don't.

Q. Mrs. Socia, who had custody of the constitution of Local 1083?

A. I think the president.

Q. Who is the president?

A. Steve Anderson.

Q. Does he also have custody of its by-laws?

A. He does.

Q. Who has custody of the local's minutes?

A. Eva Freddle would have.

Q. She is the recording secretary?

A. That is right.

Q. Do you recall, Mrs. Socia, whether at any of these union meetings you attended, any action was taken by

the membership of the union with reference to the bringing of this suit?

A. Yes, I do.

Q. When?

A. Oh, in March or April.

Q. Of 1941?

A. Yes, I think so.

Mr. Cooper: I now move on the record, if the Court please, that plaintiff be required to produce in court tomorrow the constitution and by-laws of Local 1083, United Pottery Workers of America, and its minutes; being produced by officials of the union who can identify the same.

The Master: I think I will do this. I have been looking up the law a little bit on unincorporated associations, and their right to sue, and how they sue. I haven't got very far in it. I have never had the question come before me previously and I want to do a little research of my own on that question to feel at home in the field before I rule on that.

I will take your motion under advisement, and will not direct them to have it down here tomorrow, but if I decide that it is material, I will at some future time direct them to have it down.

Mr. Cooper: Now, if the Court please, I make the offer of proof which has been made before, and I state it in this way, because of prior discussions on it, to go through the entire period in question here with this witness, asking by detailed questions, day by day and week by week, and based on computations and other questions, to find exactly what, if any, her claim in this matter is.

I state that as an offer because at previous times we have undertaken to do the same thing with other witnesses, and have not been permitted to do so.

The Master: Well, I am glad you put it that way, because it short-cuts a lot, rather than going through the individual questions. I will hear the objection to it for the record. I assume you are objecting.

Mr. Lamb: Yes.

The Master: And I will make the same ruling that I have when it has come up before, that I am not going to permit that. The exhibits are in evidence and the computation can be made by anyone.

Mr. Cooper: Our offer is to show by this detailed examination to which I have referred, that this witness has no claim.

The Master: I understand that is its purpose, and I won't permit it to be shown that way.

Mr. Cooper: That concludes the cross examination.

The Master: Any further re-direct?

Mr. Lamb: I wonder if the Master has any questions? I understood that the defendant wanted to go into the question of the authorization of the union.

The Master: That is right.

Mr. Lamb: Does the Master have any further questions about that? The defendant has rested without asking any particular question about it.

The Master: As to the authorization of the union to sue?

Mr. Lamb: Yes.

The Master: He did ask about a meeting, and the constitution and by-laws, and he found they were possessed by somebody else.

Mr. Lamb: He didn't ask whether the meeting authorized that.

Mr. Cooper: Of course, I didn't ask that, your Honor, because the witness established that minutes were kept, which would obviously be the best evidence. * * *

CHARLES E. DOLL was thereupon produced as a witness, and, after having been first duly sworn, testified as follows:

* * *

Cross Examination

By Mr. Lamb:

Q. And is that Charles E. Doll, Senior?
A. It would be Senior, yes.
Q. Do you have a son by the name of Charles E. Doll, Junior?
A. Correct.
Q. Is he with the Mount Clemens Pottery Company, too?
A. He is.
Q. In what capacity?
A. Assistant manager.
Q. And in what capacity do you serve, Mr. Doll?
A. Vice-president and general manager.
Q. Of the Mount Clemens Pottery Company?
A. Yes.
Q. Who is the president of the Mount Clemens Pottery Company?
A. R. R. Williams.
Q. Will you tell us, Mr. Doll, how long you have been associated with the Mount Clemens Pottery Company?
A. Since 1914.
Q. How did you begin your service in 1914?
A. The Mount Clemens Pottery Company was a local organization and I was engaged by the corporation to construct and manage the original plant.
Q. Had you been in the pottery business elsewhere?
A. I had been in the pottery business practically all my life.

Q. And where had you been in the pottery business prior to your association with the Mount Clemens Pottery Company?

A. At the W. S. George Pottery Company, Palestine, Ohio; at the Cook Pottery Company, Kittanning, Pennsylvania, and the Bennett Pottery Company, Baltimore, Maryland. * * *

Q. (By Mr. Lamb) I think you said, Mr. Doll, that you had been with the Mt. Clemens Pottery Company since 1914?

A. Yes.

Q. Has the character of the product manufactured remained somewhat the same during the years?

A. We have manufactured dinner ware exclusively during the entire period.

Q. And I wonder if you would tell the Master what you mean by "dinner ware"; what products are included in that category?

A. Well, the dinner ware we manufacture is the type that you use on the tables of 135,000,000 people three times a day; it is plates, cups, saucers, fruit dishes and articles of that kind.

Q. And has that been true ever since you have been associated with the company?

A. We have always made popular lines of dinner ware. We have never made the luxury or the art items.

Q. Did you give us your home address?

A. 121 Bellevue Avenue, Mt. Clemens.

Q. Did you tell us whether or not you have any children associated with the company: Charles E. Doll, Jr., I think you said?

A. I have two sons connected with the business.

Q. What is the name of the other son?

A. J. Randolph Doll.

Q. What capacity does he have with the company?

A. He is personnel director.

Q. J. Randolph Doll is the personnel director of the Mt. Clemens Pottery Company?

A. Yes, sir.

Q. How long has he served as personnel director?

A. He has been personnel director since May, 1941.

Q. Since May, 1941, is that correct?

A. Yes.

Q. And what capacity did he serve in prior to that?

A. I believe previous to that time he had charge of certain manufacturing departments and in charge of the shipments of the company.

Q. Now, I wonder if you would tell us some of your duties as general manager and vice-president of the Mt. Clemens Pottery Company, Mr. Doll?

A. My duties, as general manager, is complete charge of the business.

Q. How many departments do you have in this business; how is this company departmentalized?

A. Oh, probably about ten to twelve departments.

Q. Could you be able to give us the names of some of them?

A. Yes, I can give them all to you if you care to, starting from one end of the plant and coming right straight through, we have the split department, the clay department, the bisque loading department—

Bisque unloading department, sagger department, brushing department.

Q. Brushing?

A. Yes. Dipping department, glost loading department—"g-l-o-s-t"—glost unloading, glost ware room, decorating department, kiln firing department, packing and shipping department.

Q. Is that the entire number of departments of the business?

A. I think I have covered them all.

Q. Do you have a bookkeeping or office department?

A. Oh, yes, office; yes.

Q. Now, who serves immediately under you?

A. Charles E. Doll, Jr.

Q. Charles E. Doll, he is a sort of associate or assistant general manager?

A. Assistant manager.

Q. And how long has he served in that capacity?

A. About fifteen years.

Q. Who is the head of the office and bookkeeping?

A. Miss Agnes Benbennick. * * *

Q. Are you familiar with the books and records of the Mt. Clemens Pottery Company?

A. I am entirely.

Q. I wonder if you would tell us, Mr. Doll, in a general way, just what books are kept and what records are kept of the wages and hours of the employees?

A. The records that are kept are the same as have been submitted for your inspection.

Q. Well, now, would you tell the Master so that the record will be a little more definite than that what these records are?

A. We have a record of attendance represented by the time cards; we have our work sheets; and the yearly earning record of the individual employees.

Q. Now, are those all the records that you have showing wages and hours of the employees?

A. They are. * * *

Q. Now, will you tell the Master something of the physical details by which these records are kept; who keeps them, where they are kept, and so forth?

A. First of all, with regard to the time cards, the time cards are daily placed in the racks at the time clocks, whence each day they are taken from the racks, brought back to the office.

Q. Will you tell us in that connection who puts them in the time clocks and who takes them out to the office?

A. One of the watchmen. * * *

They are brought into the office. The daily hours of working are computed, marked on the cards, and they are then put back into the racks being available for the next punching and for the observation of the employees as to the recorded time. At the same time those recorded hours are daily recorded on the work sheets of the individual employee.

Q. And by referring to your statement that the hours are recorded daily on the work sheet, would you indicate to the Master for instance in some—page 2, we will say, that we have in front of us now, the items that you refer to as the daily hours? * * *

The Master: The volume that has already been referred to by the witness entitled, "Payroll sheets filed for January 7, 1941, to April 1st, 1941," has been marked as Exhibit 44. It contains a great many sheets for different days, and the specific sheet being questioned about can be identified. * * *

A. As I said before, the red figures are the same as on the time card and are transferred to this sheet daily.

Q. (By Mr. Lamb) And when you refer to the red figures as being the same as on the time card, you refer to the pen or pencil notations on the side of a time card such as that which appears on Exhibit 35-HH?

A. That is correct.

Q. The name Lillian Socia, and the figure indicating 8 hours?

A. That is correct.

Q. And then those figures on the time card are carried over into red crayon marks on work sheets such as that indicated in Exhibit 44-A, is that correct?

A. That is the one I just said.

Q. Yes. And it is true, as I look at this, that a work sheet such as Exhibit 44-A contains the names of several persons at the left, and not of just one employee, isn't that correct?

A. In this case it is.

Q. Do you list these names on a work sheet by reason of a departmental relationship to each other, or just how?

A. By departments.

Q. By departments. Then do you list in these work sheets all of the persons who appear in a particular department together, so that the first part of the volume will be one department, the second part will be another department?

A. Yes. When you get to a change of departments, the people in those departments are all kept in one place, unless the employee, as is very rare, happens to work in more than one department.

Q. How will we determine, for instance, Mr. Doll, the people in the slip house department, which is the name of the first department appearing in this volume, how many sheets which we look to to determine the names or the number of the employees, for instance, in that department? How will it be indicated when that department ends?

A. By a change in heading. * * *

Q. I see. In other words, there are day rates paid in all departments, or ~~in~~ some departments, at least?

A. They are paid in some departments. * * *

Q. (By Mr. Lamb) This exhibit that has been handed here, being a map, is that as of the present time or the prior time? I see two or three time clocks marked on it; I am trying to find out about that. Is time clock "B" out there now, indicated on Exhibit 30? * * *

A. This is marked "Time clocks"; there are two there at the present time.

Q. At the place it is indicated "Time clocks," there are now two?

A. Yes.

Q. And at the place it is indicated "A." on Exhibit 30, is that time clock there now?

A. It is.

Q. Was that time clock there in 1938?

A. Yes.

Q. And at the place marked "B," on Exhibit 30, you say there are two time clocks there now; were there two time clocks there in 1938?

A. Only one.

Q. Could you tell us when the other time clock was installed at "B"?

A. Approximately March 15, 1941.

Q. Thank you. Now, Mr. Doll, you were describing

the physical matter of keeping these books, and you got to the question of taking the time clock cards to the office, and from the time clock cards the penciled or inked hours, the company's computations were made in the office, is that correct, after the watchmen picked up these cards, took them into the office; were there some computations made as to the hours worked?

A. That is right.

Q. Now, who made those computations?

A. Payroll clerks.

Q. Payroll clerks. Now, can you give me the names of one or two of the payroll clerks?

A. Yes. Take Mary Emerick, Cleo Brunniman.

Q. Any others?

A. Pansy Stewart.

Q. Now, these watchmen turned the time clock cards over to these payroll clerks that you refer to and the payroll clerks make the company's computation of the hours worked of each employee, is that right?

A. They make the entries.

Q. Now, who makes the entries in your work sheet, as indicated by Exhibit 44-A?

A. The same girls.

Q. The same girls, and these entries are made when, in the work sheets?

A. Most of them are made daily.

Q. Every day the payroll clerks enter in the time, the work sheets, the company's computation of the time worked by an employee for the preceding day?

A. That is right.

Q. Or do they do it the same day?

A. No, for the preceding day.

Q. For the preceding day. Now, on Exhibit 44-A appears a great number of other markings, and I wonder if you would advise the Master what those figures indicate?

A. These figures that you see across here represent—

Q. (Interposing) You are referring to the columns headed "Wednesday, Thursday, Friday"?

A. Yes; they refer to the production in clay dozens made on each of those days during the pay.

Q. Yes.

The Master: You are referring specifically to the figures that are written in vertically, 29,166 1/3?

Q. (By Mr. Lamb) For instance, in the first column you are referring to the figure 29,166 1/3, is that correct?

A. Yes.

Q. And that refers to the production of units by what, an employee or by a department?

A. This group of employees, in this case.

Q. The group of employees whose names appear on the first page of Exhibit 44-A?

A. Yes.

Q. And then above that appears the word "six and one-half"; what does that indicate?

A. That is a production record showing the number of scrap mills that were made on that particular day.

Q. (By Mr. Lamb) Now, what is the figure 90 which is immediately above that figure?

A. That refers to the mills of fresh material.

Q. And the figure 94?

A. The filter presses made during the day.

Q. Is that for daily production?

A. That is daily production.

Q. In other words, there is a separate sheet for these people in this department or this gang for each day of the working year, is that correct?

A. That is right.

Q. Each working day?

A. That is right.

Q. Now, coming across to the figures at the right of Exhibit 44-A, and at the top appears the pencilled note 893. Will you advise the Master what that is?

The Master: That is, opposite the word "presses" in the same column as this figure 94 you previously asked him about.

A. That is the total presses for the day.

The Master: These figures on the right-hand column are totals, then? That is, the right-hand column opposite presses, mills, scrap, and these series of vertical figures, the figure in the extreme right-hand column which are filled in, are totals of the group of figures?

A. Totals for the two weeks of pay.

Q. (By Mr. Lamb) Now, at the right under the next column under the word "rate" appears the word "65 cents per 100 dozen." Will you advise us what that means?

A. 65 cents per 100 dozen is the basic rate upon which these people in this group are settled for their pay.

Q. And then in the right column under the word "amount" appears the figure $1,637.50. Will you advise us what that indicates?

A. That is the multiple of these dozens, and the rate.

Q. So that by taking the columns, totals of these production figures, and multiplying it by the rate per 100 dozen, we get the total amount of $1,637.50, which is paid out to the employees on this sheet?

A. That is correct.

Q. Or on the entire—both sides of the sheet?

A. It would be on both sides of the sheet.

Q. Yes. Now, if this $1,637.50 was paid to the employees whose names appear on this sheet 44 A, for the two weeks period ending April 1st, 1941, will you advise the Master how that is broken down to pay various employees? How is that $1,637.50 divided up?

A. It is primarily distributed on the basis of the hours worked.

Q. Well, would you be able to explain a little more fully just what that means? How is this $1,637.50 paid out to the various employees whose names appear thereon?

A. The hours of the total group are computed together, and the production divided among the men in proportion to the hours worked. In such cases—in this particular in-

stance, except in such cases where the men have by agreement among themselves requested that where the hours are anywheres near the same on any one pay that they be given an equal split. * * *

The Master: In other words, on this Exhibit 44-A, is that pay computed according to what you call the gang piece work basis?

A. This is a group, a small group.

The Master: Group piece work basis?

A. Yes.

The Master: Where you get the production of the entire group and split it among that group?

A. This is one of those cases.

The Master: And in each case to use that method of compensating the employees, is it true that the same basic rate of pay applies to the entire group?

A. It does except in cases where through a learner or a new person being put in, the group feels that the new individual should not participate in a full share, and in this particular case here, the difference in the earnings would go to the more experienced men until such time as the individual is qualified to carry his full load. The cost to the company is exactly the same.

The Master: And in case where you have in a given department differences in skill involved, so that the basic rate of the employees is different, that is, different classes of employees, according to the basic rate of pay in a given department, then you do not use this group piece work basis, based on the entire department?

A. On the individual settlement in those cases.

The Master: I see. Just to pursue this a little further, I am trying to get this clear in my own mind as to your method of computing pay. Supposing on this Exhibit 44-A, one of the individuals, we will take Albert Miller, was a beginner, and was to receive a lower basic rate of pay, how would that be computed?

A. The customary method of doing that, your Honor, is for the first few pays, for that man to work at a stip-

ulated rate per hour, which rate per hour is deducted from the total amount of money before it is divided among the other men.

The Master: I see. Now, just one other thing and I will let Mr. Lamb resume. You stated that where you have had this group piece work method of pay, that the pay would be divided among the various members of the group either on the basis of the number of hours they worked, or else divided so that each drew the same gross rate of pay?

A. Yes, sir.

The Master: Or gross pay for the pay period?

A. That is right.

The Master: You then stated that the group themselves determined as to which method should be followed?

A. The group originally suggested the method. That isn't changed every pay. That is by agreement. It dates back quite a little ways. * * *

A. I say the agreement among the men regarding this method of settlement, dates back quite a little time. Personally, we would rather pay it on a strictly pro rated hour basis, but at the request of the men we have never changed it back that way, because every time we have suggested it, they have stated they would prefer it this way, because of the fact that it insures more of a uniform income, and where one man has a little edge in hours, one pay, the other man has it the other pay.

The Master: Well, that varies from week to week in a given department, as to how you pay the men, then? In other words, what I am trying to get at is what kind of an agreement—you say that depends upon agreement of the men. What kind of agreement do you get from them? Do they just informally tell you that they want a certain method followed rather than the other?

A. I wouldn't like you to get the idea that that is the general condition prevailing throughout the plant. You have asked me questions regarding a specific department.

The Master: I see.

A. And I am only answering with respect to that department.

The Master: Is that an unusual situation then that doesn't generally prevail?

A. It is.

The Master: And it prevails in this particular department because the men in the department ask that their pay be computed on that basis?

A. That is correct. * * *

Q. I think the Master has already asked you whether the red mark, 72-¾ indicates the hours worked in that two-week period by—is that Albert Miller or Lawrence Miller?

The Master: I don't think I asked him that.

A. I understood that we were strictly testifying—

Q. (By Mr. Lamb) May I ask you a question, whether this mark, 72-¾, indicates the hours worked by the company's computation for Albert Miller during the period ending April 1st, 1941?

A. They are the hours worked by Lawrence Miller.

Q. According to the company's computation on the time clock cards, is that correct?

A. No, I didn't say that.

Q. Will you tell—

A. I say they represent the hours worked by Lawrence Miller.

Q. Do they indicate the hours that appear on his time clock cards for the two-week period ending April 1st, 1941?

A. Not if every minute were counted.

Q. Do they indicate the company's computation on the time clock cards of the hours worked by Albert Miller for the period ending April 1, 1941?

A. They represent the company's knowledge of what he actually worked. * * *

Q. (By Mr. Lamb) I point to the figure in ink on this Exhibit 44-A, and I will ask you—possibly you can read it better than I, unless my interpretation of the word is wrong. "Tools," am I correct about that?

A. Yes.

Q. Tools, 12 cents, is that correct?

A. Yes.

Q. And I notice that 12 cents is deducted from the pay of Walter Brandt for that period ending April 1, 1941, is that correct?

(No response.)

The Master: Is that right?

A. Yes, that is correct.

Mr. Nunneley: I understand this is all being gone into just for the purpose of showing the system.

The Master: That is right. That is my understanding, at least.

Q. (By Mr. Lamb, continuing): Can you advise me whether—

Mr. Nunneley: (Interposing): If there is any other purpose to it, we want to know what it is. We would object to it. We have objected to the thing except as to the system. No claim, for instance, has been made for any of these men that they didn't get paid, or anything of that sort.

February 27, 1942

Examination of Charles E. Doll, Sr. (Continued)

Q. Will you advise us who, either individually or collectively, are responsible for the labor policies of your company?

A. I am.

Q. And are you also responsible for the method of keeping time records of the Mt. Clemens Pottery Company?

A. As General Manager I am responsible for all acts of the company.

Q. Did you, in behalf of the Mt. Clemens Pottery Company, approve or set up the method of paying employees when they report in from the succeeding quarter-hour?

Mr. Cooper: I object to the form of that. I think it is two questions; "approve or set up."

Mr. Lamb: Well, let us take them one at a time.

Q. (By Mr. Lamb, continuing) Did you set up that system?

A. I set up the system, as described to you yesterday.

Q. Yes. And you have approved the continuance of that system, have you not?

A. Definitely.

Q. You testified that in Exhibit 44-A, this one work sheet, that you had heard from a foreman that some individuals whose names appeared in that Exhibit 44-A, representing a group or gang of employees whose names appear on there, that you had individual—or that there were some kind of agreements to divide equally the money that had been paid for that job, is that correct?

A. That is right.

Mr. Cooper: Objection. * * *

The Master: I will leave that question and answer in the record, but hold that it only goes to the question of establishing a system by which the defendant pays its working men. * * *

Q. (By Mr. Lamb) Do you have a copy of any such record or agreement between an individual or group of individuals agreeing that the wages might be paid equally to the members of that group?

A. We have no written record, but the payroll records will show that the precedent of that has been in existence for many years.

Q. And as I understand it, you were not present when this foreman claims to have made any such agreement with individual employees, were you?

A. The foreman—the request was made by the group to the foreman, and in turn transmitted to me for our approval.

Q. Were you present when any such arrangement was made between employees in your company?

A. I was not, in this instance.

Q. I beg your pardon?

A. I was not, in this instance.

Q. You were not.

A. The foreman acted as intermediary in this case.

Q. Now, on Exhibit 44-A, you were testifying yesterday about deductions which appear on the pay checks of certain employees, such as Colin Pipe and Walter Brandt for tools. Can you advise us what tools that covers?

A. The term "tools" is rather used in general. In this particular instance you referred to a 12-cent deduction?

Q. Yes, a 12-cent deduction, and another deduction of 27 cents.

A. In the case of the 12-cent deduction, that covered a pair of canvas gloves.

Q. A pair of canvas gloves?

A. Yes.

Q. Will you tell us what the deduction for Colin Pipe for tools was?

Mr. Cooper: Objection, if the Court please. I do not believe Colin Pipe is claimed to be represented here.

The Master: I will overrule the objection in finding out what their system was.

Mr. Nunneley: I understand we have an objection to all of this, as far as proving their claim?

The Master: Yes, and the plaintiff has an objection to my restricting the cross-examination and not permitting it as independent proof of a new claim. So that each side can have an objection.

Go ahead.

Q. (By Mr. Lamb) I think I asked a question about what the deduction for Colin Pipe for tools was. Could you tell us what that was for?

A. That represents a pair of rubber-lined canvas gloves.

Q. You charged the employees 27 cents for a pair of rubber-lined canvas gloves and 12 cents for plain canvas gloves?

A. That is right.

Q. Do you have the invoices with you indicating the amount you paid for those canvas gloves, Mr. Doll?

A. (Producing papers): I think they were, $2.70 a dozen. * * *

(Two invoices were thereupon marked Exhibits Nos. 45 and 46 by the reporter.) * * *

A. Exhibit 45 represents an invoice showing what we paid for the canvas gloves with rubber lining. It shows that we paid for these gloves $2.70 a dozen, or 33 cents a pair—or, 23 cents a pair, I meant to say. * *

Exhibit 46 is an invoice for canvas gloves, for which we paid $1.05 a dozen, or 9 cents a pair. * * *

Q. 9 cents a pair. And that covers the 12-cent deduction for Walter Brandt, is that right?

A. That is correct.

Q. Now, the other invoice covered a pair of rubber lined gloves at how much?

A. Costing us 23 cents a pair.

Q. Costing 23 cents, and that is represented by the item deduction tools, 27 cents, under Colin Pipe, Exhibit 44-A?

A. Yes.

Mr. Cooper: If the Court please, I assume the objection we have heretofore made with reference to any deductions so-called from employees' wages continues on here?

The Master: Yes. I will make this statement; you have made a general objection to the materiality of that, and to the propriety of that type of claim under the Wage and Hour Act, and in order to avoid the necessity of your repeating that objection constantly, I will consider you have a general objection on that ground to all testimony pertaining to objections.

If you have any other objection, however, to make to questions or evidence than that general objection, you will have to make it specifically.

The Witness: Your Honor, may I add to that that

these are not our laid-down cost. This is what we pay to manufacturers. We have the freight to pay, and handling, and things of that kind, which are not shown in ordinary invoices.

The Master: How do you determine the amount that you charge or deduct the employee's pay for these items of merchandise for which he is charged?

A. We try to cover the handling and overhead expense, but we are not successful in doing that. In other words, if these things are all bought by the employees on the outside, we would be delighted to have them do it. It is simply a convenience that we run which costs us more than we get out of it.

The Master: Take the case of Exhibit 46, the canvas gloves which you paid for, at least, exclusive of freight and handling cost 9 cents a pair, and you charged the employees 12 cents a pair. Now, how did you decide on charging them 12 cents a pair?

A. The actual expense covered by freight and operation of the store actually amounts to, if you are going to come out even, you would have to add one-third.

The Master: Then, in the case of all gloves, did you make a uniform mark-up of one-third from the cost of purchase of the gloves?

A. No, we do not, as is plainly evident in this case. As markets—in the first place, invoices vary in cost, up and down, and you more or less try to stabilize your price instead of taking one every time you get in a new shipment, revising the cost, and under present conditions as they have existed for the last year and a half everything has been upward.

The Master: Now, has this 12-cent charge for that type of glove been in effect for some time?

A. Yes, it has.

The Master: How far back does that go?

A. That probably has been in effect for the last 12 months.

The Master: For the last 12 months?

A. Yes.

The Master: Do you know what the price was for canvas gloves before that?

A. This type of glove hasn't varied very much in price until quite recently.

The Master: The charge that you made to the employee, I am talking about, not the cost to you.

A. The charge to the employees has been about the same for a considerable period.

The Master: When you say "a considerable period," how long, how many years?

A. Well, that would be at least 12 months back, I would say definitely.

The Master: What can you say as to the situation within the preceding two years?

A. Well, I can hardly carry in mind the individual prices paid for these odds and ends, or the prices charged your Honor, except in stating what our principle has been with regard to the fact to actually cover the overhead cost of handling these supplies, which you would have to add at least one-third.

The Master: Well, it has been your objective all the way through in determining the amount that you are going to charge the employees for the different kinds of equipment that you handle and sell to them that you would charge them the cost price plus one-third, approximately, but not computing it each individual time?

A. That was our original standard.

The Master: Do you know in the case of the canvas gloves represented by Exhibit 46 how much the freight cost actually amounted to?

A. No, I couldn't tell you on an individual shipment.

The Master: Go ahead, Mr. Lamb.

Q. (By Mr. Lamb) Do you know whether these freight charges were prepaid? Would you like to look at the invoices? (Handing papers to the witness.) For instance, the item of freight prepaid on Exhibit 46.

A. This one so states, that is correct.

Q. I call your attention, Mr. Doll, to the fact that on Exhibit 46 you are billed for 96 dozen pair at $109.80.

A. That is right.

Q. Was that 9 cents a pair that you estimated?

A. At $1.05 a dozen.

Q. Or 9 cents a pair?

A. Yes, to make it exact it would be—

The Master: A little less than that.

Q. (By Mr. Lamb) As a matter of fact, the company paid how much for this item for which you were billed $100.80, will you advise us the amount the Mt. Clemens Pottery Company actually paid?

A. Well, the cash discount on this item happens to be 2 percent.

The Master: So the company paid that amount less 2 percent?

Q. (By Mr. Lamb) Would you tell us what you paid, $98.70?

A. $98.70 is the amount of the invoice. Cash discounts, however, do not enter into the cost of goods.

Q. (By Mr. Lamb, Interposing) Do you say that you do or do not have records of deductions from the employees' pay?

A. We have records of deductions made for each pay as the payroll is computed.

Q. You have them now, do you?

A. We don't have them now, they are not preserved.

The Master: Those records show the deductions, but not what they are for?

Mr. Lamb: We are trying to find out what it is for.

The Master: You are asking about the record showing the detail of the deductions?

Mr. Lamb: Yes.

Q. (By Mr. Lamb) How long have you kept the record after the deductions are made, Mr. Doll?

A. The individual slips come in from the storeroom, are kept until the following pay and then there is no further use for them, they are not kept any longer than that.

Q. And then do you destroy them?

A. They are destroyed.

The Master: Just what is the system when an em-

ployee wants or needs a particular item of equipment, say he gets a pair of gloves, how does he obtain them?

A. He goes to the storeroom, obtains them from the storekeeper and signs a slip for them.

The Master: What do you call those slips?

A. Simply a memorandum of the charge.

The Master: And then what is done with those slips?

A. Those slips are collected together and deducted from the following pay.

Q. (By Mr. Lamb) Mr. Doll, do you say that the employees sign a release for materials that are turned over to them individually?

A. That they withdraw from the storeroom.

Q. Do you know of any deductions from the pay of Alice Stoll for which she has not signed?

A. In the decorating department the supplies there, for the convenience of the people, in view of the fact that the department is located—

Q. (Interposing) Can you just tell us— • • •

The Master: Yes, answer the question directly: do you know of any deductions made from the pay of Alice Stoll for which she has not signed? • • •

Q. (By Mr. Lamb) You were going to say in the decorating room, were you not, that that practice was not followed that the employee signs for a deduction?

A. In the decorating department, which is located quite a distance from the storeroom, there are some small items of supplies that are kept there by the foreman and are drawn on directly from the foreman.

Q. Do you know of deductions having been made from the pay of Dorothy May in the decorating room, for which she has not signed any authorization?

A. If you will present the case and the individual pay—

Q. (Interposing) I am asking you—

A. (Continuing)—I will identify it one way or the other.

The Master: Do you know of any right offhand?

A. I could not say whether the supplies being asked

about had been withdrawn from the stockroom or whether they had been withdrawn from the supplies being kept by the foreman in that department. • • •

Mr. Lamb: Then we ask that he will have made available to us and brought here the records covering Dorothy May. • • •

The Witness: Your Honor, knowing what these records are like, there is only one way that that can be done, and that would be to determine Mrs. May's entries on here and make some notations as to where they are, and bring the books over. We cannot run the risk of getting these records all out of place, because of their vital nature, by taking sheets out of binders. We will have to depend upon the binders.

The Master: I see. You don't want these sheets abstracted?

The Witness: We cannot do it because it is too vital.

Mr. Lamb: It is perfectly agreeable with me if they make computations of it, and dates, and itemize them.

• • •

Q. Carl Pogel, for the period ending April 1, 1941. I notice under the item there of Carl Pogel evidently appears the words "day rate, 60 cents." Can you advise us what that is?

A. That is some work that he has performed other than his piece work.

Q. I see.

A. During the hours listed.

Q. Now, would—

The Master: (Interposing) That is paid for on an hourly basis?

A. Yes.

The Master: And added to the piece work pay that the employee makes?

A. That is correct.

Q. (By Mr. Lamb) Would that be down time, or waiting time, or would it be maintenance on machinery, or would you be able to tell us what kind of work that day rate was paid for?

A. I couldn't tell you what the exact work was.

Q. Would you have any records which would reveal that to us?

A. There, of course, were records at the time as to what it is. I couldn't tell you the specific thing for which it is covered.

Q. Do you have any records anywhere that would indicate what that deduction on that rate was paid for? Whether it was maintenance work, down time, repair, waiting time, or other basis on which you might have paid that employee?

A. It would represent some unusual service performed by the employee within his hours stipulated for which he was made an allowance on the day rate basis.

Q. Can you advise us whether you have any record which would indicate that unusual work that you say was done?

A. There were records at the time the entry was made.

Q. Do you have any such records now?

A. I couldn't say whether there is a specific record covering that entry or not.

Q. What kind of a record would that be attached to? What kind of a record would that be? You say you don't know whether there would be one now. Where would the record of that day rate having been paid to this employee be? What form and where would it be kept?

A. It frequently happens that when an employee performs some special duty for his foreman not directly connected with his work, that the foreman turns in an extra slip showing a credit to be allowed him for that particular operation. It would appear in this case that that is one of those instances. • • •

The Master: You had better make a note of it, Mr. Doll, while we are on the question of hourly rate, what is the system in the plant with respect to paying employees: as I understand it, practically all the employees are paid primarily upon a piece work basis?

A. 99 per cent.

The Master: Are there some employees that are paid entirely on an hourly rate basis?

A. Maintenance employees, boiler firemen, and people of that kind.

The Master: People in the office, how do they work?

A. They are salaried employees.

The Master: They are all salaried employees. Now, the 99 per cent that work on a piece work basis, many of them at times are paid on an hourly basis for a short period of time, is that right?

A. I say if there is some minor service that they do in their hours that is not directly connected with their own piece work, there is an allowance made for that particular work by agreement between themselves, and the foreman, whatever it may be. It is simply a detail of the department operation that is incidental to the entire pay roll procedure and to the work being performed by the employee.

The Master: Well, do you have established rates for the different types of miscellaneous work that the employees might do, that they will get paid for on an hourly basis?

A. We do not.

The Master: That is determined in each individual case by agreement between the foreman and the individuals?

A. It is. * * *

Q. (By Mr. Lamb) Do you pay for down time, supposing the machinery is broken down and the employees are compelled to wait in a department for an hour?

Mr. Cooper: An objection; that is a hypothetical situation. * * *

The Master: The objections are in and they are overruled.

A. Payment is not made for waiting time.

The Master: It is figured in the employees' working hours?

A. It is figured in the employees' working hours; unless it is a long break-down, which time they may go out and at some time later return to their work.

The Master: Now, how long a break-down does it have to be before they are sent out of the plant?

A. Oh, probably an hour or more.

The Master: An hour or more?

A. Yes.

The Master: If you have a break-down that looks like it is going to last an hour, the foreman will send the employees out of the plant and that will not be figured in their working time?

A. There are instances where that happens.

Q. (By Mr. Lamb, continuing) Mr. Doll, it is a fact, is it not, that you have had at least two strikes in your plant within the last—since March 1st, 1941?

A. A minority group of our employees have pulled two strikes during 1941.

Q. Now, the first strike your plant was closed for a month or so, was it not?

A. Four weeks.

Q. Four weeks. That occurred in April of 1941, right?

A. Yes.

Q. You say that strike lasted four weeks?

A. It did.

Q. And then when did the second strike occur?

A. November 24.

Q. 1941?

A. 1941.

Q. Now, the first strike and also the second strike were both called because of the company's failure to pay the employees for the time worked, isn't that correct?

A. They were not.

Q. You are aware that the company's policy is to pay employees reporting prior to 7 o'clock only from 7 o'clock, isn't that correct?

A. They are paid from the time that they start work.

Q. Do you pay them when they start work prior to 7 o'clock; do you pay them for that?

A. They don't start work prior to the starting time.

Q. Well, I am asking you; you say there are no employees who start work prior to the quarter-hour, is that your testimony?

A. Not by orders of the company.

Q. You say "orders of the company."

A. I say not by orders of the company.

Q. Do you say that the company has orders that employees shall not start prior to 7 o'clock, for instance?

A. If that happens to be the starting time.

Q. Are you able to produce any orders to that effect, any written orders to the employees?

A. I am not.

The Master: Do you have anything in writing, any written instructions to foremen with respect to starting time?

A. Those matters are covered verbally in instructions to the foremen.

The Master: Then you don't have any written instructions?

A. No.

The Master: Let me find out first, what proportion of your ware do you sell to Kresge, of the perfect ware?

A. About 50 per cent.

The Master: And where is that delivered?

A. It is shipped to the various Kresge stores located throughout the United States.

The Master: Shipped direct to the various Kresge stores throughout the United States?

A. Yes, sir.

The Master: Where does the order come from for such merchandise?

A. Sent to us from the various offices of the company, the same as they are sent to any other firms from whom they purchase.

The Master: Now, of your other customers, can you state whether most of them are out-of-state customers?

A. We have other customers outside the State of Michigan.

The Master: This 50 per cent of your ware, or approximately 50 per cent that you say you ship to other customers than Kresge, can you give a rough percentage as to how much of it is shipped outside the State, that is non-Kresge ware?

A. All of it is shipped out of the State. * * *

Q. (By Mr. Lamb, continuing) Whereabouts do you purchase, for instance, glost and your materials? Possibly we can lump that in the same classification the Master has as to percentages of your purchases which come from outside the State of Michigan?

A. Referring to our raw materials?

Q. Yes.

A. We purchase raw materials outside the State of Michigan. * * *

Q. (By Mr. Lamb) Mr. Doll, do you ever have occasion to have meetings of the employees of the Mount Clemens Pottery Company?

A. There have been times when we have had meetings.

Q. And have there been times when you have addressed such meetings?

A. Yes.

Q. Are you able to give us generally the time during the day when those meetings are held? * * *

A. These meetings were very rare, and when they have been held the general time used, generally had to be adapted to the working schedules then in effect.

Q. (By Mr. Lamb) Did you ever attend any meetings during noon hours, or luncheon recess?

A. There may have been times when departments might have been addressed at that time.

Q. "Addressed," you mean by yourself?

A. Yes.

Q. Are you able to give us an estimate of the number of times that you addressed employees by departments, or generally, at meetings in the year 1940?

(Objection overruled.) * * *

A. I would say on two occasions.

Q. (By Mr. Lamb) You think you addressed meetings on two occasions in the year 1940, is that correct?

A. Yes.

Q. Did you discuss—well, will you tell us what you discussed, if you can recall the general subjects? Then there won't be any leading question or objection.

A. I couldn't state what I discussed in 1940 with the employees.

Q. Can you recall having discussed any ways of increasing the efficiency of the employees and productivity of them?

A. Well, we undoubtedly talked of matters that were to the employees' interests.

The Master: Well, did it pertain to increasing the efficiency of the employees?

A. I would say that anything that is to their interest could increase their efficiency.

Q. (By Mr. Lamb) And is there anything that is to the interests of the Mount Clemens Pottery Company made by increasing the efficiency of the plant?

A. Our meetings were all directed at the interests of the employees.

Q. Did you ever discuss bonuses at any of these meetings?

A. We never paid a bonus.

Q. You say you have not paid a bonus?

A. We have not paid bonuses.

Q. What did you pay?

A. We paid extra compensation.

Q. I see. Did you ever post any bulletin notices, or did anyone under you ever post any bulletin notices in the Mount Clemens Pottery Company premises, advising the employees that you were going to give them a bonus?

A. There may have been, but not under the term of "bonus."

The Master: How did you refer to this compensation that was paid along around Christmas time every year?

A. Well, we referred to it as extra compensation paid to the employees out of the company earnings.

The Master: Did you refer to it as a profit-sharing arrangement, where they got back part of the profits?

A. If it was paid out of the earnings, it would have had to come out of the profits.

The Master: Well, is that the way you referred to it, as a profit-sharing arrangement, either in the bulletin or your talks to the employees?

A. Undoubtedly it was made clear to them that it was being paid because there had been some earnings. If there hadn't been earnings, it could not have been paid.

* * *

The Master: Did you give the employees every year, we will say within the last five years, a vacation with pay?

A. We gave them money that was used for, no doubt, for vacation purposes.

The Master: Wasn't that the understanding, that it was a vacation, or was it?

A. Yes.

The Master: What period—how long a vacation did the employees get?

A. There have been times when those who took it took a week.

The Master: Took a week?

A. Yes. And other times when they continued to work and were given an equivalent amount of money.

The Master: In other words, they were given the money whether they took the week off or not?

A. Yes.

The Master: In addition, if they worked that week they were paid for the work they did that week?

A. Yes, sir.

Q. (By Mr. Lamb) You had what you called a 51-52-53 plan, did you not, for vacation?

A. We did.

The Master: What is that plan? I am not very familiar with that. * * *

A. That was the intent of the plan. 51 weeks worked with 53 weeks pay. * * *

Q. (By Mr. Lamb, continuing): Mr. Doll, you were speaking of the fact that articles used by employees in this business were signed for by the employees?

A. At the stock room.

Q. Now, do you say that that is always true, that is always true?

A. Of the supplies that are kept in the stock room.

Q. What about the sponges that were deducted from the employees' pay, did they sign for those?

A. They signed for those in the stock room.

Q. Did Alice Stoll sign for sponges that she used?

A. I don't know.

Q. Would you be able to produce any receipts that employees are alleged to have signed for the acquisition of these materials that were used in their work?

A. On current payrolls.

Q. For the period 1940?

A. No. I said on a current payroll.

The Master: He says he just has them for the current payroll. He has already described them.

Q. (By Mr. Lamb, continuing) Let's get this clear. Would you have any receipts, assuming that Alice Stoll had signed for sponges, for instance, that were charged against her pay: would you have any receipts for Alice Stoll in your files?

A. We would not now.

Q. Or Dorothy May, would you have any receipts for anything that you might have charged against her payroll?

A. We would not now. They have not been working for us for quite a while.

Q. At least you don't keep such receipts for a period of more than a couple of weeks, is that right?

A. I have testified to that dozens of times already.

Q. And that is your practice of destroying the receipts after a couple of weeks?

A. Within a reasonable time.

Q. You want to say that Alice Stoll signed for sponges that were charged against her paycheck?

A. (Interrupting) If she got them from the stock room, she would sign for them.

Q. I see. And is it possible that sponges were given to her, for instance, that she didn't obtain from the stock room?

A. It would be contrary to practice if it were.

Q. Doesn't the foreman go around and sign names of employees to have these deductions made against their paychecks?

A. Not to my knowledge.

Q. I see. Have you ever issued any instructions to foremen advising them that they shall not make deductions against employees' wages, except where the employee signs for the material?

A. They are not to make deductions against the employees' wages unless they know that the supplies were furnished.

Q. I see. So if they know the supplies were furnished to particular employees, you say that they have the right to then charge that to the employees' account, is that correct?

A. They would, yes.

Q. And do you have any knowledge of foremen charging to the account of one employee for sponges, for instance, that might have been used by another employee?

A. No.

Q. Do you have any knowledge of jigger men being charged with sponges used by finishers?

A. Jigger men until some time in 1941 were always charged with the sponges used by their finishers, the same as is done in every pottery in the United States.

Q. What I am quite interested in knowing is whether that was done at the Mt. Clemens Pottery Company until 1941, you say?

A. It was.

Q. What month in 1941?

A. Up until some time in 1941.

Q. Are you able to fix the month you stopped?

A. If my memory is correct, about March.

Q. In carrying out your policy of charging to jigger men the sponges used by finishers; you don't have any policy of charging anything else to other persons' accounts, do you?

A. Charging of the sponges to the jigger men was an established custom prevailing in this pottery ever since it has been built, and, as I have said before, prevails throughout the industry and is known to the employees.

The Master: Incidentally, in connection with the first strike, do I understand the plant was closed for some period after that?

A. The plant was closed for four weeks.

The Master: Did everybody go back to work at the end of that time?

A. Everybody went back to work without discrimination.

The Master: Now, this recent strike started in November, the second strike?

A. November 24th.

The Master: That was last year?

A. Yes.

The Master: And the employees that went on strike are still on strike, they haven't come back?

A. No, quite a number of them have returned to work. The plant was not closed on this occasion. It continued to operate.

Q. (By Mr. Lamb) You don't think foreman ever signed for deductions made against the employees, is that right?

A. Not to my knowledge.

Q. I thought you said that the foreman could make such a deduction if he knew if was for the employee's use?

A. He might turn in the record of the charge.

Q. Yes.

A. But you asked whether he signed for it in the employee's name.

Q. Well, was your testimony that the foreman, if he knew that materials were being used by a particular employee, could make the deduction from that employee's pay check?

A. If the employee came to him and purchased the article from him.

Q. Well, who would sign for it in that event, when the foreman, you say, authorized such a deduction, knowing that it was for a particular employee?

A. And if I were running the department, I would have had the employee sign.

Q. Yes, I know, but what happened when your inferior officer did? Did the foreman sign, or did the employee always sign?

A. If such a thing happened, he turned in a memorandum of the employee having received the article.

The Master: Without anybody signing it?

A. There might be instances of that kind.

The Master: Might the foreman himself sign it; do you know of any such instances?

A. No, he wouldn't sign; he might turn in a memorandum to the office.

The Master: You are sure the foreman didn't sign the slips on behalf of the employees?

A. I know exactly to what counsel is referring.

The Master: Well, just answer the question; did the foreman ever sign the slips on behalf of the employees, to your knowledge?

A. No, they don't sign the slips. In the case of the decorating department, the foreman may report during the course of the pay the list of supplies that he has turned over to certain employees of the department.

The Master: Without signing?

A. Without signing, yes, sir.

Q. (By Mr. Lamb) Mr. Doll, can you advise us whether the employees were given a copy of what is marked as Exhibit 44-A or B, the payroll sheets?

A. Employees given a copy?

Q. Yes.

A. No, not of those work sheets.

Q. I see. Can you advise me whether the employee is given any indication on his payroll records of any deductions having been made for materials used?

A. I don't think that the supply deductions are shown on the stubs.

Q. Now, these stubs that are given the employees represent a voucher for a two-week period of pay, is that correct?

A. Normally, yes.

Q. Well, I wonder if you would tell us whether the employee is given any record of the amount deducted from his wage for materials used?

A. The employee knows what he has purchased.

Q. I am just asking you if the employee is given any record.

The Master: Is he given any record? Do you give the employee any statement of how his wages are computed?

A. The office records are open to the employees at all times. * * *

The Master: How does it happen that you don't furnish a statement showing the employee how many pieces he has turned out during the week and how much per piece he is entitled to receive, and what the total amount on a piece work basis he is entitled to for the work he has done for that week amounts to, and then setting up the deductions that are made from that amount?

A. Well, in the first place the piece work employees know the dozens that they have done, they keep track of that themselves then the rate being paid per dozen, and they know, consequently, the amount that they have earned. If their pay check doesn't correspond to that, they come to the office and the case is verified for them one way or the other. * * *

Q. (By Mr. Lamb) Do you have anyone who counts production?

A. No.

Q. You mean you don't have anyone who counts production?

A. Only in the finished state.

Q. What do you call those people who count production in the finished state?

A. They are not what we call our inspectors. They are simply counting for the company's final record.

Q. What do you call them?

The Master: What do you call them? Do you refer to them by a particular name?

A. In the glost ware room, where the final production is recorded by the foreman of that department—

The Master: The foreman in the glost ware department records the finished production of goods?

A. Yes.

The Master: Do you call him a counter, or do you have any particular name that you designate him by other than the foreman of the glost ware department?

A. Have him verify the count in that department.

Q. (By Mr. Lamb) When that is verified, is there a duplicate copy of that count given to the employees in that department, the glost ware department, for instance?

A I think he lets them know what the daily count is.

Q. Does he give them any duplicate copy? I think that is what we want to find out at the moment?

A. No, not officially.

The Master: My understanding was, as I recall now, in the clay shop department, you have these three different groups of people working together; the jigger man, the batter out—sometimes I heard it as ballers-out, I don't know just which is right—and finishers?

A. Yes.

The Master: And one of those three would keep a count during the day of the number of pieces turned out by the group?

A. That is correct.

The Master: Is that correct?

A. Yes, the finisher keeps the count.

The Master: The finisher keeps the count? That was my recollection.

A. That is right.

The Master: And then she turns over a slip with the total production for the day to the office and she keeps a duplicate copy herself?

A. No. She loads the ware on the standard unit trucks.

The Master: I understand.

A. And she keeps one copy; leaves the other one on the truck, and when the truck is finally accepted by the inspector, why, the ticket is then removed and the following day comes to the office.

The Master: I didn't mean she carried it over herself to the office, but I meant one record of that production during the day is on the truck, then, and it gets eventually to the office, and she keeps the other record for herself?

A. Yes.

The Master: And her pay, and the jigger man's pay, and the batter-out's pay, are based upon the production as shown by the ticket and the slip she keeps, is that right?

A. That is correct.

Q. (By Mr. Lamb) Will you advise us, Mr. Doll, first how an employee can tell from the voucher which is given him at the end of a two week period—

Mr. Nunneley: (Interposing) Mr. Lamb, will you stand over to the left a little bit?

Mr. Lamb: Yes.

Q. (By Mr. Lamb)—what deductions have been made for materials used?

A. I previously stated there is none shown on the stub.

Q. Can you advise me how an employee can tell from the voucher which is given him the hours worked by an employee that has been computed; that is, the computation which the company has made?

A. They know that from the entries on the time cards.

Q. I am not asking you to guess as to what employees might know. I am asking you to tell us from the voucher how he can determine the hours which the company has credited him with working?

A. There is nothing on the voucher to show it.

Q. (By Mr. Lamb) I see. Now, does "gross pay" mean, for instance, an employee working on a piecework rate at a fixed price per production unit, does the gross pay mean the amount that he receives indicating the pro-

duction amount times the rate per unit; is that the gross?

A. It does, less the deductions not listed hereon.

Q. I see. So gross pay to you doesn't mean the total pay which the employee earns, but the pay he receives, less deductions which are made?

Mr. Cooper: Objection.

Q. (Continuing) Such as for the purpose or acquisition of materials, such as scissors, carriers, sponges, and all the rest of the things that are deducted from his pay? I am just trying to find out what "gross pay" means.

The Master: I will give the witness a free hand in answer. * * *

A. That sounds rather misleading to me from the standpoint that when you say "the money earned"; what the employee has actually earned is the amount of money that he has earned at piecework less the expenses that he has incurred.

Q. (By Mr. Lamb) Well, what is the answer?

A. That becomes his gross pay.

Q. Does his gross pay, then, become the amount that he has received, if he is on a piecework basis, the production times the premium per unit, his total earnings, less any deductions that are made such as for these articles that we have talked about?

A. The multiple of his total production by the rate earned, less his expenses he may have paid.

Q. It is the multiple of his total production less the deductions that are made for these various materials that we have talked about, sponges—

The Master: You left out one part of your question. You said it was the multiple of the total production; the multiple times the rate, minus the deductions, is that right?

Q. (By Mr. Lamb) Is that what gross pay means on this record?

A. Yes.

Q. I see. Now, what does gross pay mean if an employee is on an hourly rate such as a maintenance em-

ployee, would that be his total hours times his hourly rate, less any deductions?

A. It would.

Q. Right?

A. Yes.

The Master: Will there be deductions for men doing maintenance work paid on an hourly basis, that is, will there be deductions for material and equipment?

A. Very rarely. * * *

Mr. Lamb: The next question is, does the company give her a computation record that she can keep her production on.

The Master: If you want to ask that you can; does the company give the employee any record on which they can keep a record of their production?

A. I don't think that is the case, except in the clay department.

Q. (By Mr. Lamb) In the decorating, or the other departments, you don't think such forms are provided, is that right?

A. No.

Q. Do you think such forms are provided in the clay department?

A. We have already testified as to the daily forms provided there.

Q. For what?

A. The employees keep a copy. I say, we have already had testimony on that.

The Master: I think perhaps you were talking with your clients back there at the time he testified to that. He was testifying in the clay department the production of ware is mounted on trucks and there is a ticket of the total production on the truck. The finisher, as I understand it, makes that record on the ticket, and also keeps a record herself, which I presume is on a company form. The truck is taken away and the ticket eventually is taken to the office and used in entering the production in these records from which the office computes the pay of the

employees. The other production record is retained by the finisher. Is that production record that is made and retained by the finisher on a company form?

A. That is.

The Master: What does she do then with that, take it home with her, or does she have a place to store it in the place where she works?

A. One member of the crew, or if they are individual workers, keep their tickets; I don't know whether they carry them in their purse or what they do with them, but they have them available if they find it necessary to make a check. * * *

The Master: Who keeps the count in the decorating department in the first instance that is used as a basis for pay?

A. The girls report at the end of the day to the foreman the work that they have performed during the day, and the entry is made on the record at that time and they have a copy of the figures that they have reported in.

The Master: In that department is the pay based upon the amount of pieces that the individual employees each turn out?

A. Yes.

The Master: Are they based on the group turn-out?

A. It is individual piecework.

The Master: And each girl keeps a record of the amount she turns out and then the foreman checks it?

A. Yes.

The Master: And they settle their arguments at that time as to who is right?

A. Yes, sir.

The Master: Then what does the foreman do, enter the amount that each girl has turned out on a form?

A. That is correct.

The Master: Does that find its way then into the office?

A. Yes, it comes to the office from him.

The Master: The production figures that the girls make then do not get directly over to the office, that is the slips upon which the girls enter the production that they have turned out?

A. Each girl is present when her production figure is entered on her individual work sheet.

The Master: The foreman has one work sheet for each girl?

A. That is correct.

Q. (By Mr. Lamb) Do you have any practice in the Mt. Clemens Pottery Company of making any 10 per cent deduction for a period of 20 weeks or 10 pays for girls who are beginning?

A. We do not.

Q. I wonder if you would advise us whether that was true in the year 1940?

A. For a period of a few months, it was a very short period; we had an apprenticeship discount applying on beginners. The exact number of weeks that was in effect I don't know offhand, but it was quite awhile ago discontinued.

Q. You say it was discontinued, when?

A. Oh, it has been a year and a half or two years ago.

Q. Well, let's get down to months and years; was it in the year 1940 discontinued, or in the year 1941?

A. It was definitely previous to 1940.

Q. Previous to 1940?

The Master: Previous to 1940?

A. I would say yes; that is, to the best of my recollection.

The Master: That would be more than two years ago, then?

Mr. Lamb: Now, let us get your statement.

A. I will be glad to get it exactly, if you want to know the date.

Q. (By Mr. Lamb, continuing) Do you say you say you weren't making deductions from the pay checks in 1940—ten per cent?

Mr. Cooper: I think, if the Court please, the witness should be given an opportunity to check the records which he has requested.

A. I won't attempt at this time to fix the time. It is a matter of record and can be ascertained.

Q. You are not able to tell us now as to whether, that

is, independent of reference to your records, whether that practice was in existence at any time in the year 1940?

A. I wouldn't say positively without looking at the records.

Q. Now, what records would you have which would indicate that?

A. Work sheets.

Q. O. K. I have here only Exhibit 44 which begins on January 7, 1941, and continues to April 1st, 1941. Would you look at the work sheets and advise us whether in that period deductions were made for the type we have asked about?

A. I can tell you without looking at it that they were not.

Q. They were not made in the year 1941?

A. That is right.

Q. Is that right?

A. That is right.

Q. All right. You say that there are no such deductions indicated in your payroll sheets for that period from January 7th, 1941, to April 1st, 1941?

A. I would say there are not; yes, sir.

Q. Now, I take it that your testimony, Mr. Doll, is that for the period of January 7th, 1941, to April 1st, 1941, the payroll sheets which will reveal the company's policy as to that deduction, that none of those payroll sheets will indicate such a deduction having been made from any of the employees; is that right?

A. Yes, sir.

Q. All right. Now, you state that for the year 1941 and—would you like to state when in 1940 you think that practice was discontinued?

A. I would say I would be glad to refer to the records and find out and let you know.

Q. All right. Would you say that it was discontinued in December, 1940?

A. I am not saying anything about it. * * *

(A group of documents were thereupon marked Exhibits 47 to 47-N, respectively, by the reporter.)

Q. (By Mr. Lamb, continuing) Will you give us the payroll sheets in Exhibit 44 for Alice Stoll? . . .

A. It looks like I am in error. . . .

Q. What do you refer to by saying you are in error?

A. In this case there is a ten per cent deduction on that account.

The Master: Wait a minute, let's get this in the record as to what he is referring to. It is the pay record of Alice Stoll for the period ending January 14, 1941.

Q. (By Mr. Lamb) And it appears thereon, does it not, Mr. Doll, that her earnings were listed in pencil, $24.14 for that two week period ending January 14, 1941?

A. Yes.

Q. There is then a deduction of $2.41, leaving a net of $21.73, is that correct?

A. That is right.

Q. Do I read that correctly?

A. Yes.

Q. Off to the right with a pencil mark connecting that, there is in red crayon, "Less 10 per cent"?

A. That is correct.

Q. Now, that 10 per cent indicates a deduction made for beginning--

A. (Interrupting) That is an apprentice discount.

Q. What is that?

A. That is an apprentice discount that I refer to. But I was wrong as to the time.

The Master: Do you have any explanation?

A. Well, I know that the thing has been discontinued, and it is my error as to the date.

The Master: You are sure it has been discontinued at the present time?

A. Yes.

Q. (By Mr. Lamb) Do you think it was discontinued in the year 1941?

A. If you will give me a minute here, we will go through and see. Will you give me that number again, please?

The Master: 1219 was the number.

A. Here is the same young lady's pay for March 25th.

Q. (By Mr. Lamb) 1941?

A. Yes.

Q. And what is your testimony with regard to that?

A. There is no deduction.

The Master: You say there is no deduction?

A. There is no deduction.

The Master: Does that indicate that the practice has been discontinued, or might that indicate the employee had passed the apprenticeship period?

A. I don't know when this employee first came with the company.

Miss Stoll: August 30, 1940.

Mr. Lamb: August 30, 1940.

A. It is a definite fact that the practice had been discontinued, and we will go back here, if you care to, a few more pays.

There is the pay of March 11th.

Q. March 11th, 1940?

A. For which there is no deduction.

Q. 1941.

A. March 11, 1941.

Q. Yes. For your information, Mr. Doll, that 20-week period was up on February 11, 1941, so it would be prior to that that the deductions were made?

A. February 25th, the same again.

Q. That is right, after February 11th. Would you look prior to February 11th, Mr. Doll?

(Witness examining book.)

A. Here it is.

Q. February 11th there is no deduction.

A. That is right.

The Master: We will take a recess at this point.

Mr. Lamb: What was the exhibit we looked at? That was January 14th, wasn't it?

The Master: January 14th, yes.

(Recess.)

Q. (By Mr. Lamb) Mr. Doll, in looking at Exhibit 44-B, under the week of January 14, 1941, for Alice Stoll:

will you tell me the number of hours that the company computed that she worked?

A. 56 hours.

Q. 56 hours?

A. Yes.

Q. Are those hours or pieces that are listed?

A. These (indicating) are hours, 56 hours for the pay.

Q. What is this item "39"?

A. "39" is the dividing of 56 into $21.73.

Q. To be the hourly rate?

A. Which gave an equivalent hourly rate of 39 cents.

Q. So you took the pay that you had given to her, the gross pay, and then took ten per cent off of it. Now can you tell us whether any other deductions were made from her pay?

A. This pay shows no other deductions.

Q. Now, in calling your attention to the other side of the sheet of this same exhibit I notice the items "add to minimum pay"; will you advise us what that indicates?

A. Here is a girl who at piece-work earned $20.93, and she worked 72 hours. In order to bring her up to the statutory minimum of 30 cents, it was necessary for the company to add 67 cents to her pay to bring it up to $21.60, which is 30 times 72 hours. • • •

The Witness (Interposing) Your Honor, there is one thing here; you asked us to check back some time ago on that ten per cent proposition.

The Master: Yes.

A. When it disappears in the case of this particular one.

Mr. Lamb: Will you speak louder?

A. When it disappears in the case of the party that has been under discussion. I find here it shows up the last time on the pay of January 14th and does not show up on the pay of January 28th.

Mr. Lamb: That is of Alice Stoll?

A. Despite the fact that the party mentioned that that apprentice period he refers to was up February 11th.

• • •

Q. (By Mr. Lamb) Are you able to advise us the

names of some other people from whom you made this 10 per cent deduction in that same department?

A. No. * * *

Q. Will you look at the pay check, or the pay for Marie Pearl or Marie Goslin, for the same week?

A. What is the week?

Q. The same week that you are looking at now, January 14, 1941?

A. Here is Marie Goslin (indicating).

Q. Was 10 per cent taken off her?

A. Yes.

Mr. Cooper: Is Marie Goslin a plaintiff?

Mr. Lamb: Yes, her married name is Marie Pearl.

Q. (By Mr. Lamb) 10 per cent was deducted from the wages of Marie Goslin, or Marie Pearl, for the period ending January 14th, 1941?

Mr. Cooper: Objection to the form of the question, if the Court please. Here again it assumes, the form of the question assumes that there was an agreement that Marie Pearl, or Marie Goslin, was to be paid a certain rate and there was a deduction. * * *

The Master: Where it says "10 per cent" I think the term "deduction" is an appropriate one, but as I understand it, it is a 10 per cent deduction from the standard rate paid other employees. * * *

I will ask the witness as to that situation.

Did you have, in a given department—in the first place I will ask was there a uniform piecework rate for all employees in a given department?

A. Your Honor, we are dealing now with the decorating department. Occasionally somebody gets off about the clay department, which is a quarter of a mile away, and piecework rates in the clay department have nothing to do with piecework rates in the decorating department.

Whatever the established rates may be in any department—

The Master: (Interposing) Let us restrict ourselves—

A. (Continuing)—that rate applies to all individuals

in that department working upon that specific article and that—

Mr. Lamb: (Interposing) Operation.

A. (Continuing)—specific pattern.

The Master: Now, in the decorating department were the—in the first place I will ask whether or not both girl and men employees worked in that department?

A. They are all women employees on piecework in the decorating department with the exception, I think, of two men liners.

The Master: Now, were these girls all doing the same type of work in the decorating department?

A. They are all doing the same type of work in principle. That is, if you mean applying decorations to ware. But, when we are applying the decorations to ware, we have a variety of different patterns which are being applied to a variety of different articles. Now, there is a piecework rate for each size plate in this specific pattern in which it is being decorated. In another pattern it may be an entirely different rate.

The Master: If you used a different sized plate, there may be a different piecework rate?

A. There is a different piecework rate with a different plate.

The Master: Suppose two girls in the department, two or more girls, are working on the same type of dinnerware and making the same pattern, will they each receive the same rate or will there be different rates for the different girls?

A. If the two girls are working on the same article in the same pattern they get the same rate except as is indicated here that in the case of a beginner that there was a 10 per cent discount. But, the rate on which it was calculated was exactly the same.

The Master: And the beginner would get the rate that the others in the department were being paid for that type of work minus 10 per cent?

A. Exactly.

The Master: That is exactly as I understood the situation, and maybe the witness is wrong and maybe I am wrong about it. If so, you can bring in other proof to contradict it, but it is no use the two of us arguing as to what the situation is outside of the testimony from the witnesses on the question. * * *

The Master: Mr. Doll, was there any printed schedule of the piecework rates that were to be paid for different types of work?

A. That is in the department.

The Master: That is in the department?

A. Yes.

The Master: Is that a bulletin furnished to each employee, or is that posted on the bulletin board in the department?

A. That is kept at the foreman's desk.

Q. (By Mr. Lamb) Are you aware of the fact, Mr. Doll, that for an hour each day of the week during the period ending January 14, 1941, Marie Goslin was compelled to and did cut patterns for which she received no compensation whatever?

Mr. Cooper: Objection. It is an argumentative question.

Mr. Lamb: I am asking if he is aware of that.

Mr. Cooper: The form of the question, asking if he is aware of a fact, when there has been no testimony whatever to such effect.

The Master: I will overrule the objection.

A. Part of the piece work operation connected with decaling which is done by all girls is to cut apart the small pieces of decalcomania to apply to their own work. That is part of their rate.

The Master: What do you mean? * * *

A. It is included in the working hours and in the piece work rate.

The Master: Is it included in the working hours computed by the company, or would she spend an hour a day on that, and not have it included?

A. It is included in the working hours computed by the company.

Q. (By Mr. Lamb) Are you aware that the girls in the decorating department had to empty their own tubs after these operations were done?

A. They formerly did empty their water from their own—used in their own work, at the end of the day's work.

Q. You say that that practice has been stopped?

A. Yes, that is no longer the fact.

Q. And when did that practice stop?

A. Some time in 1941.

The Master: Who empties the tubs now?

A. We have separate boys who take care of that now.

The Master: Now, did these girls empty these tubs on their own time, or on the company time?

A. They emptied them on the computed hours time.

Q. Are you aware of any deductions being made from the pay of employees for carriers to haul materials back from one department to another?

A. There has never been such a thing in the plant.

Q. You say—that is your testimony?

A. Yes.

Q. That carriers haven't been charged to the employees?

Mr. Nunneley: Just what do you mean by "carriers"; do you mean a piece of apparatus?

Mr. Lamb: He knows what I mean.

Mr. Nunneley: No, make it clear now to the witness; do you mean a piece of apparatus?

The Master: Do you mean by individuals or apparatus, I would like to know.

Mr. Lamb: I mean apparatus, if that question arises.

Mr. Nunneley: Let's get it clear.

The Master: Go ahead and finish your question. I didn't know myself whether you meant individuals or apparatus. I don't think you finished your question. Read the question.

(Question read.)

Q. (By Mr. Lamb) I think there is a request for a

definition of a carrier, and undoubtedly you will be able to define a carrier much better than I would, Mr. Doll. Would you like to tell us what these carriers are that carry material back and forth?

A. In operations throughout the plant there are lift trucks, there are ordinary trucks there, movable bins, and various things of that kind. * * *

Q. (By Mr. Lamb) Do you have what you call three-wheel buggies?

A. We have bins.

The Master: Do you have three-wheel buggies?

A. We have bins with three wheels on them.

Q. (By Mr. Lamb) And, what do you use those for, Mr. Doll?

A. They are used to transport a finished product around the plant.

Q. I don't think I asked you about the scissors used by the girls in the decorating department. Do the girls pay for those, or are there any deductions made from their wages for the scissors used for cutting patterns, or does the company pay for those?

A. They buy their own scissors.

Q. And does the company—has the company charged the girls or sold them any so-called scissors to the girls: made any deductions from their pay checks for scissors used in cutting patterns?

A. If they purchased the scissors they were charged for them.

Q. Well, they are compelled to purchase them some place, are they not? In other words, if they didn't purchase them from you, they would have to purchase them outside, is that it?

A. The girl in the decalcomania process would require a pair of scissors.

Q. And the company does not pay for those scissors, as I understand?

A. We do not. * * *

(A number of document were thereupon marked Exhibit 48 to 48-D, respectively, by the reporter.)

* * *

March 3, 1942

SUMMARIZE L. 1, P. 1687 THROUGH L. 14, P. 1703, AS FOLLOWS:

"Counsel for defendant renew motion to strike testimony concerning alleged deductions from pay."

The Master: I think I will do this: I think I will let Mr. Lamb proceed in putting in his case without making any ruling or restricting him, and then at the end or conclusion of the plaintiff's case, I will reconsider your motion on that point and we will have the evidence in that the plaintiff is going to submit, and I will know then as to whether or not that evidence raises a good controversial issue under the Wage and Hour Act so that I can require the defendant to meet it. I don't think it should take a great deal of time to put in his case on the question of reductions. I can see, however, where you, in meeting it, will spend a lot of time bringing down witnesses and records.

Mr. Cooper: May we have a continuing objection and a motion to strike all of the testimony?

The Master: Yes, there is a continuing objection on the record to strike all of the testimony. On the grounds you have urged. If, however, there are any specific objections on the grounds of leading questions and so forth, you will have to make that at the proper time. . . .

Q. I will hand you what is marked as Exhibit—the next number.

(A document was marked Exhibit No. 49.)

Q. And ask you if you can advise us whether or not the company has issued these instructions to the members of the decorating department, the employees of the decorating department?

A. (Witness examining exhibit).

Mr. Nunneley: May we—

The Master (Interposing): You can have the exhibit identified. If you have an objection to it, that will be made at the time of the offer.

Mr. Nunneley: We want to see it.

Mr. Cooper: Should not the exhibit be identified, if the Court please, before questions are asked about it?

The Master: He is asking the witness to identify it right now. That is the very question before the witness. He is asking whether he has issued the instructions.

A. This is a record that seems to have been issued by the foreman of the decorating department.

Q. (By Mr. Lamb) To the employees of the decorating department?

A. Decorating department.

The Master: Do you offer that in evidence?

Mr. Lamb: Yes.

(Exhibit handed to counsel for the defendants.)

* * *

The Master: You don't intend, Mr. Lamb, to offer the handwriting as part of the exhibit, do you? * * *

The Master: I will admit the mimeographed part of the Exhibit 49 in evidence, or I will admit the exhibit, with the understanding any handwriting on it is not a part of the exhibit that has been admitted.

Mr. Lamb: Unless identified at a future time.

Mr. Nunneley: We desire to object to it because it is not material to the issue. * * *

The Master: I think I will admit it in evidence without reading it through carefully. * * *

Q. (By Mr. Lamb) Do your know one of your employees by the name of Eva Freddle, Mr. Doll?

A. Yes.

Q. She sits in the courtroom here?

A. Yes.

Q. Do you recall having her called into your office and your asking her if she would drop her claim for wages and hours against the Mt. Clemens Pottery Company?

A. I remember her being called to the office, but no such statement as that was made.

Q. You didn't proposition her for the dropping of the case for wages and hours which she was prosecuting?

Mr. Nunneley: Just a minute. It wouldn't make any difference whether he talked to one of the plaintiffs or not.

Mr. Lamb: It is a declaration against interest of what he offered to give her if she would drop the suit, what he would offer to pay for in the way of overtime.

Mr. Nunneley: We object to it. Suppose he did, it is incompetent evidence.

The Master: Does it go to the question of compromise?

Mr. Lamb: It is a declaration against interest, and an admission.

The Master: I think the law is clear that any testimony pertaining to a compromise of a lawsuit pending before the court is inadmissible in evidence one way or the other. There are, I think, certain exceptions to the rule, statements of fact made during the course of a compromise may be admissible. I am not sure about that, but the compromise itself and the offer of compromise I am sure is inadmissible. If it relates to compromise, and I can't see where else it relates to: I think I will sustain the objection.

Mr. Lamb: I will make the proffer that if this witness were allowed to answer he would testify that he made a declaration against the interest of the company of which he is the president, or general manager and vice-president, rather, and that he offered to make certain payments and readjustments for overtime work by said Eva Freddle.

Mr. Nunneley: I move to strike the offer out, too. That is incompetent. Suppose he did all of that.

The Master: Counsel can make the offer to get it on the record. After having made the offer, I am more convinced than before of the correctness of my ruling, that it relates to compromise, but I will leave the statement of

proffer on the record as to what he expected to get out of the witness if I permitted him to answer the questions which I refuse to let him answer. * * *

Before taking that up, I would like to ask the witness this: You have been testifying on cross-examination to the method of your company in keeping its books and records, and particularly these computation records, a volume of which has been marked Exhibit 44. Was the system of keeping records relating to the pay of employees, and particularly to these records, an example of which is Exhibit 44, the same since October, 1938, and up to the present time?

A. Identically the same since 1932.

The Master: I see. * * *

Q. (By Mr. Lamb, continuing) Were the time clock records of the Mt. Clemens Pottery Company prior to November 1st, 1939, destroyed?

A. They have been destroyed in accordance with the office's customary practice.

The Master: Who established that practice with respect to the destruction of records?

A. That dates back so long I couldn't tell you who specifically ordered it. There are lots of incidental records that you can't continue to pile up your store rooms with, and those were one of them that we only kept a certain length of time.

The Master: How long did you keep the time clock cards?

A. Time clock cards were ordinarily kept for a period of a few months, depending upon what the storage date in the stockroom where the records are permitted. In all cases long enough so that if there was any question regarding an employee's claim it could be looked up.

The Master: I presume you have quite a problem in this plant, as undoubtedly manufacturers do, with respect to what records you will keep and what records you will destroy immediately, and how long you will keep the records before you destroy them.

A. That is correct.

The Master: Do you have any written instructions or any policy that is embodied in any written agreement as to time you will keep various types of records?

A. Not written instructions. As I say, it is largely based on common sense and the storage space available in the record room.

The Master: You say that these time clock cards were kept for a period of as long as several months?

A. Yes.

The Master: And destroyed as the space became inadequate to keep them?

A. That is correct.

The Master: Who in the Mt. Clemens Pottery Company decided,—made the final decision as to when the time clock records would be destroyed?

A. Well, I assume that some time in years gone by the Office-Manager may have asked my opinion on it.

The Master: Well, during the period from October, 1938, to November, 1939, who would have made that decision?

A. As I say, it would date back considerably. They were only destroyed at that time in line with the general procedure being followed.

The Master: I wasn't asking about who established the general procedure, but you state that the general procedure was that the records would be kept a certain length of time, and that length of time would depend largely upon the amount of time or amount of space you had in the room in which you kept all old records. Now, somebody would have to finally make a decision when it was decided that a certain group of time clock records would be taken out and destroyed. Who did that?

A. The office-manager, Miss Benbennick, at intervals, as the surplus or what we considered superfluous records, ordered them cleared out of the storage room.

The Master: Of these other two types of records, relating to payroll of the employees, were those destroyed also before November, 1939, or do you have all of those?

Mr. Cooper: Is your Honor addressing that question to me? • • •

The Master (Interposing): That Exhibit 44, records of that type you have back to at least 1938, don't you?

Mr. Cooper: Yes, your Honor.

The Witness: Back to 1934.

The Master: Complete?

Mr. Cooper: Yes.

The Master: And the third type of record, I have forgotten what you call it, those cards on which computations are made.

A. The yearly earning cards.

The Master: The yearly earning cards.

A. Yes.

The Master: How far back do you have those records?

A. Those were available ever since we started, that type of record.

The Master: Go ahead, Mr. Lamb.

Q. (By Mr. Lamb) Do I understand that the destruction of those time clock records occurred in November, 1939?

A. That occurred, based upon what I know of their usual procedure there, it would have been cleared out some time in 1940.

Q. You are not able to tell us when they were destroyed in 1940?

A. No, there is no record kept of it.

Q. What is the usual procedure? That they be kept for a particular length of time, or what is that length of time?

A. As I previously stated, they are kept long enough so that they are available for any question that might come up regarding these sheets, and then they are cleaned up as storage space requires.

Q. Do you have any policy? I thought you said you had a policy that the usual rule was that you kept them a certain length of time. We are trying to find out what your policy is, or what the length of time is that you keep them.

A. We have no designated period. We had no designated period at that time.

Q. So, you don't have any definite policy as to the length of time when these records shall be kept?

A. You asked about time cards?

Q. Yes.

A. That is correct.

Q. Do you know whether that had anything to do with the Wage and Hour Division's decision to make photographs of all the time card records of the Mt. Clemens Pottery Company?

Mr. Cooper: Objected to. We are certainly here getting into something collateral to any issues before the Court. • • •

The Master: As long as this is cross-examination, I will reverse my ruling. The witness can state if he does know. If he doesn't, he can say so. I will direct him to answer the question.

Do you know that the Government has been photographing your time clock records, first?

A. That is correct.

The Master: Do you know what their reason for doing so is?

A. I haven't the slightest idea.

The Master: All right. He can't answer the question.

Q. (By Mr. Lamb) You don't know that the Government has taken these photographs to prevent you or the Mt. Clemens Pottery Company from destroying the time card records in violation of the statutes?

Mr. Nunneley: That is purely an argument.

Mr. Lamb: I am asking if he knows that. It is perfectly proper.

The Master: I will let him ask the specific question.

A. As previously stated, I have no idea as to the reasons. • • •

Q. Then I take it that when an employee works on an hourly basis, when he is also working on a piece work basis, you have not taken or paid him for the hours that he worked on an hourly basis the same rate of pay that

you gave him on the piece work rate per hour, is that right?

Mr. Cooper: May I hear the question?

(Question read.)

Mr. Cooper: I objeet to that question, if the Court please, it is argumentative. It is misleading. There is confusion of the rate of pay.

Mr. Lamb: It wasn't confusing to the witness before you stated your objection; he answered and he stated "No."

The Reporter: I didn't hear the answer.

A. I didn't make any.

Mr. Nunneley: I move it be stricken.

The Master: I didn't hear any answer myself.

A. No answer was given. * * *

The Master: All right, but now there is no relation between that hourly rate that you compute on the basis of the total piece work earnings of the individual and the hourly rate which the same individual would receive when he is doing work for which he is paid solely on an hourly basis?

A. There is no direct relationship.

The Master: In the case of this individual, Nicholas Daeko, for example, I think you have mentioned that he had an average hourly rate for that pay period of 52 cents an hour.

A. His combined piece work and hourly rate. I think that is shown, yes, 52 cents.

The Master: Whereas, for the time he worked on a straight hourly basis he got 40 cents an hour?

A. That is right. * * *

(A volume of payroll work sheets was marked Exhibit 50.)

The Master: As we mark the exhibits, we will have the witness look at them. Exhibit 50 has been marked. Will you identify that?

A. Those are our work sheet records for the period of September 20, 1938, to December 31, 1938.

(A volume of payroll work sheets was marked Exhibit 51.)

The Master: And Exhibit 51 is the same for what period?

A. Payroll period dated January 10, 1939, to April 18, 1939.

(A volume of payroll work sheets was marked Exhibit 52.)

The Master: Will you identify Exhibit 52?

A. Payroll period, April 25, 1939 to July 25, 1939.

(A volume of payroll work sheets was marked Exhibit 53.)

The Master: I will just ask the general question, Mr. Doll, and won't repeat it in each case. You say what Exhibit 53 is, and identify it.

A. Exhibit 53, our payroll work sheets for the period August 1, 1939, to November 14, 1939.

(A volume of payroll work sheets was marked Exhibit 54.)

A. Exhibit 54, payroll work sheets for the period November 21st, 1939, to February 13, 1940.

(A volume of payroll work sheets was marked Exhibit 55.)

A. Exhibit 55, our payroll work sheets for the period February 20, 1940, to June 4, 1940.

(A volume of payroll work sheets was marked Exhibit 56.)

A. Exhibit No. 56 is payroll work sheets for the period June 11, 1940, to September 10, 1940.

(A volume of payroll work sheets was marked Exhibit 57.)

A. Exhibit 57 is the payroll work sheets for the period September 17, 1940, to December 31, 1940. • • •

The Master: You might have this on the record. You say you are offering the individual earnings records?

Mr. Lamb: We want them identified first, then we will offer them.

The Master: I don't want to receive in evidence all

of these individual earnings records. The only ones that are necessary are the ones that pertain to the plaintiffs or those who have filed designations to have the union represent them. These records are not in bound volumes so that it is impossible to separate them. They are all individual sheets, and I would like to have them separated according to the years 1938, 1939 and 1940, in each case have a complete list of the plaintiffs or those who filed designations on the part of the plaintiffs. * * *

The Master: Outside of the question of the offering of these exhibits in evidence, do you have any further questions to ask Mr. Doll?

Mr. Lamb: Not at this time. I am going to have him subject to cross-examination about this Kresge thing, and these records.

The Master: That is true. You have a right to bring him back on that issue.

Mr. Boos: The respondent, S. S. Kresge Company, reserves the right to cross-examine the plaintiff's witness Doll until he is recalled to the stand, if at all.

The Master: All right. What about—

Mr. Nunneley (Interposing): We reserve the right to cross-examine Mr. Doll when they are through with him. There is no use of our cross-examining until they are through asking whatever questions they want to ask of him. If he is through we will proceed; otherwise we reserve our right.

The Master: I understand he is through with him outside of the matter of the Kresge—the proof relating to the Kresge Company, and it may be before we reconvene we can get some order from Judge Picard covering that subject, possibly, to take that out of the scope of the reference and have it reserved as an issue before Judge Picard rather than the Master.

Mr. Lamb: Of course, he is always subject to cross-examination on various records.

Mr. Nunneley: You reserved the right to cross-examine. You said before we went over you were going to cross-examine.

The Master: Do you want to examine him further on these records?

Mr. Lamb: Are they all admitted?

Mr. Nunneley: They haven't been admitted yet.

The Master: Well, will whether you examine him or not depend on whether they are admitted?

Mr. Lamb: Here is what I don't understand just exactly what your ruling is on the time cards.

The Master: My ruling was that I am not going to have those marked at the present time. During the adjournment of this case I am going to look up the law of evidence and see if I can find some cases on the question as to how a matter of this sort should be handled. * * *

Mr. Nunneley: The same situation should be true as to these volumes.

The Master: And, I think I will hold that under advisement, too, until I can look up the law of evidence on it. I would like Counsel, if they find any authorities on that question of how to handle a question of this sort, to submit them. If they don't submit them I will decide the question myself from whatever authorities I can find over the adjournment period. I don't see that it is necessary to decide that now. I will take that question under advisement. * * *

EVA FREDDLE, was thereupon called as a witness on behalf of the Plaintiffs, and being first duly sworn, testified as follows:

Direct Examination

By Mr. Lamb:

Q. Will you give us your address, Miss Freddle?

A. New Baltimore, Michigan.

Q. How long have you been an employee of the Mt. Clemens Pottery Company?

A. I started to work in the pottery April 8, 1937.

Q. And what department did you work in, Miss Freddle?

A. Decal.

Q. In the decal department?

A. That is correct.

Q. Is that the same as the decorating department?

A. Yes.

Q. Were you employed in the decal or the decorating department all the time since you worked there?

A. I beg your pardon?

Q. Have you worked in the decal or decorating department ever since you began working there in 1937?

A. That is right.

Q. Approximately how far would you say the decorating department, the bench in the decorating department at which you work, was located from the time clock at which you punched in?

A. I would say about 100 feet.

Q. Would you want to give us any estimate of the time it took you to go from the time clock to the bench where you work?

A. Oh, about a minute or two, not long.

Q. Did you go directly to your bench from the time clock?

A. Yes, I did.

Q. Can you tell us whether you ever did any so-called charity work?

A. Yes, I did; every day I cut print for one hour without any pay.

Q. That is, every day since you worked there?

A. Every day.

Q. You cut print?

A. That is right.

Q. For one hour?

The Master: What do you mean by "cutting print"?

A. I am a decorator and we have to cut our designs for the next day.

The Master: What time of the day did you do this work?

A. We did that an hour before we went out to punch the card.

The Master: In the morning?

A. No, in the afternoon.

The Master: In the afternoon?

A. Yes.

The Master: In other words, when you came back at noon, you did this work?

A. Well, we worked a few hours after noon and we stopped to cut print.

Q. (By Mr. Lamb): That is, you did your other work, your decorating work?

A. Yes.

Q. And piece work for some hours after lunch, and then a period of one hour prior to the termination of the day's work you stopped your piece work and you then cut patterns for one hour, is that correct?

A. That is right.

The Master: Let me ask you this; did you punch the time clock out before or after you did this hour's work?

A. I punched the card after I cut my prints.

The Master: I see. In other words, you came back from lunch and you did your regular piece work?

A. That is right.

The Master: And after you got through with that, you spent an hour cutting prints?

A. That is right.

The Master: And then you punched the time clock out?

A. That is correct.

Q. Is that true during the entire period you worked there?

A. That is right, and then there was another occasion I did charity work is when I started working in the pottery a girl was paid to put centers in ware. Now, if the centers turned out bad, a boy put them out with acid, and the girl was paid to put these in; after quite a few

had accumulated, they took one girl and had her put them in. She usually worked all day at this, it depended on how many there were.

And then this girl found out she couldn't make as much money doing this, so we went to work one morning and I had a stack of ware sitting on my bench, centerless ware, and was told that I had to put those centers in. Sometimes I had as high as ten dozen, and this threw me back on my own piece work, because I had to do that work.

The Master: When you talk about putting centers in ware, just what does that consist of?

A. Well, it is center spray and you had to varnish the plate and let it dry, and put the decal on and rub it down and dip it.

The Master: When you took a plate and centered it, what kind of a decoration did you put on it?

A. A flower usually.

The Master: Pardon?

A. A flower.

The Master: Right in the center?

A. Yes.

The Master: Of the plate?

A. That is right.

The Master: That is what you call centering?

A. That is centering. It is a transfer that we put on to the plate.

The Master: Would that centering be in addition to other decoration put on the dinner ware, or would it be the only decoration?

A. This ware had already been decorated, and then they took the centers out that were bad, and we had to put new centers in.

The Master: You didn't do the job of taking the old centers out. You just put the new centers in?

A. That is right, because they didn't really know who they belonged to, the centers when they did blister. They were then put through the kilns. Unless they inspected

a particular person's ware, that was the only way of knowing.

The Master: When was it you had to do this particular work?

A. Well, it wasn't any specified time. What I mean is we had to do it during the day but we never knew which day we were going to have this ware.

The Master: Did it extend—what date was it? What year was it started?

A. Well, I would say about three years ago.

The Master: Have you been doing it continuously since that time?

A. That is right. Not every day. Whenever they had some, and that was brought to us girls.

Q. (By Mr. Lamb): You say that was in 1938 or 1939 that that practice was inaugurated of having you put the centers on the ware?

A. I would say it was about three years. I am not sure just when it started.

The Master: Was that something that they made you do that they didn't make the other girls do?

A. No, the other girls had to do it, too, on this item they called "600". That has a center.

The Master: Was this done during the time you were in the plant as shown by the time clocks.

A. This was done while I was working.

The Master: On a particular day, would it be done during the time that you were shown on the time clock cards to have been in the plant?

A. Yes.

The Master: You don't make any claim that it was done before or after you punched the time clock?

A. No, it was done while I was in the department.

Q. (By Mr. Lamb): There was nothing paid for that service, however?

A. No, there wasn't. In fact, it put us back on our own work, as we were working piece work. It slowed us up, because when you stop and put in eight or nine dozen

centers, why, it is bound to throw you back on your own work.

Q. Were any deductions ever made from your pay for brushes?

A. All our brushes and tools were deducted.

Mr. Cooper: Same objection we make to this line of questioning, as we made before.

The Master: You can have the objection on the basis of the claimed immateriality of the deductions.

Q. (By Mr. Lamb): Can you advise us what they charged you for brushes?

A. Well, they didn't exactly tell us the exact amount, but when I got my pay I figured it up according to the amount of dozens that I did, and the pay, the gross earnings, did not come to the same amount that I had.

Q. And what did you determine was the amount that they charged you for brushes?

A. On this one particular case, 34 cents was deducted from my pay for a size brush.

Q. Could you buy that brush any place else, or were you compelled to buy it from the Mt. Clemens Pottery Company?

A. They did not want us to buy them any place else, because there was a certain brush they had to use in that department.

Q. Could you have bought it any place else, or were you compelled to buy it from the Mt. Clemens Pottery Company?

A. Well, I think we were compelled to buy them, because they were imported brushes. We were told they were.

The Master: Who told you that?

A. The foreman.

The Master: What was his name?

A. Mr. Trabue.

The Master: How do you spell that?

A. T-r-a-b-u-e.

Q. (By Mr. Lamb): What is the fact in regard to any deductions for scissors that were used in your work?

A. Well, when I started to work in the pottery, I had my own scissors, and my foreman—that was after the girl that had broken me in—he showed me how to do the work then and he started to cut with my scissors and said that they weren't any good, and told me that they had them on sale at the shop. And, I continued to use my own, and I got these for 25 cents plus the penny tax, I think.

The Master: Did you ever buy any from the shop?

A. No, I didn't. Not scissors.

Q. (By Mr. Lamb): Do you know what they charged for scissors in the shop?

A. I don't know what they were, but they were over a half dollar. What the amount was, I do not know.

The Master: Did you use the same pair of scissors all the time you worked there, or did you replace them from time to time?

A. No, I think I had three pairs since I started.

The Master: You just went out to a store in Mt. Clemens and bought them?

A. I just went to a store.

Q. (By Mr. Lamb): Can you advise us whether any foreman ever told you that you should buy your scissors from the Mt. Clemens Pottery Company?

Mr. Nunneley: We object to that as not only being leading, but suggestive.

The Master: It is leading. You can ask her what the foreman said with respect to scissors, but your question is leading.

Q. (By Mr. Lamb): I will ask you first whether you ever had any conversation with the foreman relative to scissors?

A. Well, it was just that, when he started to cut with mine, they appeared dull to him and he said we have them on sale here.

The Master: What was the reason you bought them elsewhere instead of buying them at the Mt. Clemens Pottery Company?

A. Because I didn't want to pay over a half a dollar for scissors.

(Time cards were thereupon marked Exhibits 58 to 58-MM.)

Q. (By Mr. Lamb): I will ask you to identify these, and advise us whether those are your time clock cards?

A. (Examining cards) Yes, they are.

Q. (By Mr. Lamb) I will hand you Exhibit 58, and ask you whether or not you punched the clock at 7:01 on every morning of that two-week period?

A. Yes, I did.

Q. I will hand you Exhibit 58-J, and ask you whether each day in that two-week period you have been credited with having worked only eight hours?

A. That is right.

Q. Or a total of eighty hours for the two-week period, is that correct?

A. That is right.

Q. I will ask you whether it is not a fact that you reported on the first Monday recorded on said card for the period ending March 25, 1941, reported in at 7:01, out at lunch at 12:11, back from lunch at 12:47, and out in the evening at 4:24, is that correct?

A. That is right.

Q. And are given credit for eight hours work?

A. Yes.

Q. And, on Tuesday, immediately thereafter, you started work again at 7:01, out at lunch at 12:11, back from lunch at 12:48, and out in the evening at 4:20, and again given credit for 8 hours?

A. Yes.

Q. Can you give us the names—before I leave that subject, I offer Exhibit 58 through Exhibit 58-MM.

Mr. Nunneley: These are objected to, if the Court please, for the reason that practically all of these cards, this list of cards from Exhibit 58-A to 58-MM, show no

overtime, regardless of how it is figured. I won't say that every one is in that position, because some of them might show, on their theory, but practically all of them show no overtime, no matter how it is figured.

Mr. Lamb: Our theory is that every card in that lot shows these people were not paid according to the time they worked.

The Master: I will admit them. I think they are evidence at least of the practice of the company with respect to the time they required employees— • • •

Q. (By Mr. Lamb) Can you give me the names of some of the other girls who worked in your decorating department, whom you have seen do charity work?

A. I could name a lot of them.

Q. Will you do so, please?

A. There is Ruth Jackson and—

The Master: (Interposing) Let me ask this, in answering it, to get the definition of charity work a little more specific in the question. Do you have in mind a specific type of charity work, of the type you refer to before, of centering plates in dinnerware?

A. That is correct.

The Master: Now will you give those names?

Mr. Cooper: We object to the materiality of the question as so stated.

The Master: Well, it goes to the issue of charity work here, and perhaps some of these names will be names of plaintiffs or those who filed designations in the case. I suppose she could be asked to pick out among the list of plaintiffs—

Mr. Lamb: (Interposing) She can also show the picture of the company.

The Master: I will overrule the objection.

Q. (By Mr. Lamb) Will you continue?

A. Norma Kethe. • • •

Q. All the girls who did Job No. 600 had to do that charity work?

A. Had to do that. We each had a little bit to do each day, and it depended how much they had in one group. Like if they had a lot, we got more. It was divided—it wasn't equally divided. Some got a few pieces more and some less, but we all had to do it, all the girls that did 600.

The Master: May I ask how many girls there were in that department that did this 600 job?

A. I don't know exactly how many, but there were quite a few.

The Master: Well, roughly? What is the nearest estimate you can make? 50? * * *

A. I don't know. I would make it about 40.

The Master: Go ahead, Mr. Lamb.

Q. (By Mr. Lamb) That is the job which you refer to as No. 600?

A. That is the job that has the center.

Q. That is the centering job?

A. Yes.

Q. Putting this flower center, and so forth?

A. That is right.

Q. Now, have you seen any other girls in your department do any of this charity work of cutting patterns?

A. Everyone that—

Q. (Interposing) After you finished your piece work for the day.

A. Everyone that decorates cuts print.

Q. Could you give us the names of some girls whom you have seen do this cutting of print after finishing the piece work? Just give us the names of some.

A. I will say Ruth Jackson, Norma Hethe, Esther Miller, and in fact all of them that did any decorating.

Q. Dorothy May?

A. No, she was a liner.

Q. Can you think of any others that you want to name?

A. I will say Martha Bossow. * * *

Q. (By Mr. Lamb) Do you say all the other girls who do this decorating work cut print after doing their piecework?

A. That is right.

Q. Are you able to give us an idea how many girls are in that department, decorating department, who do this job?

A. Well, this varies, but there are times when there were 120 girls, decorators.

Q. Were sponges ever charged to you? Do you use sponges in your department?

A. Yes, we do.

Q. Were sponges charged to you?

A. Sponges and all tools were deducted.

Q. I see. I wonder if you would tell the Master more specifically what you do with sponges.

A. Well, we sponge the print down after it has been dipped. If there is,—sometime the print, when it comes out of the tub, has a tendency to bubble up and a sponge is used to sponge this print down so that it sticks onto the varnish.

The Master: In other words, you take the print and wet it?

A. Yes.

The Master: And then put it on the particular part of dinnerware that you are decorating?

A. No. First we put the varnish on the plate and then that varnish has to dry to a certain tackiness, and then we put the transfer on, and after the transfer is on we have a brush; this brush that is called a rubbing brush, and we rub this transfer down by dipping the brush into a bowl with a sponge in it and water, and rub this transfer down.

The Master: When you first put the transfer on is it moist?

A. It is dry when you put the transfer on.

The Master: And then you take the brush and dip it in water?

A. And rub over this transfer, and set a stack of ware on the tub and dip it. That is, the paper comes off and the designs remain on the plate. And sometime, if it isn't

rubbed down too hard, it has a tendency to bubble and we use this other sponge to sponge it down.

The Master: How big are these sponges?

A. Oh, the sponge is about like that (indicating).

The Master: Would you say about 4 inches in diameter?

A. Yes, something like that.

Q. (By Mr. Lamb) Do you know what you were charged for those sponges?

A. I don't know.

Q. Now, the brushes that you talked about, the rubbing brushes are those you have already testified regarding?

A. Yes. Rubbing brushes, size brushes, were deducted from our pay. Those were essential to our work.

Q. Did you ever object to this matter of making deductions from your pay?

A. Well, the girls in general discussed it, and they didn't like the idea of the company deducting from our earnings.

The Master: Did you ever make any objection to your foremen or to any superior of yours?

A. No, I didn't.

Q. (By Mr. Lamb) Did you girls ever discuss, or did you ever discuss with any foremen the question of being paid only from the succeeding quarter-hour from the time you reported in for work?

A. You mean that punching in early?

Q. Yes.

A. Well, there wasn't anything that could be done about it. It just seemed as though—

Mr. Nunneley: (Interposing) The question doesn't have to be answered that way. The question was did they discuss that question with the foremen.

Mr. Lamb: She can give her answer.

The Master: Usually the objection of non-responsiveness is only made by the party asking the question. I think it is better to answer the question directly.

Did you make such objection over that practice to foremen or any superior of yours in the plant?

A. No, I didn't.

Q. (By Mr. Lamb) Did you girls discuss it among yourselves?

A. Yes.

Mr. Nunneley: We object to what they discussed among themselves. • • •

The Master: Just a minute, I am trying to think this through. Of course, the defendants claim plaintiffs are barred from recovery here because they accepted the practices of the management over a period of years and never made any protest to management.

The Witness: It didn't do any good to protest.

The Master: I don't see the relevancy of what they said among themselves. I assume that they may have grumbled or protested about the practice among themselves, but if it wasn't communicated to the management I don't think it is relevant to this proceeding.

I think you can tell why it wasn't protested to the management.

Mr. Lamb: She just testified it wouldn't do any good because they would lose their jobs.

Mr. Nunneley: She didn't say it, but she will, I assume, after you have told her to.

The Master: I don't think she did say that.

Mr. Lamb: Can we read back the last answer? I may be wrong about this. Ask the witness whether she said that.

The Master: She said it would do no good to protest, I believe, but she didn't add the last statement.

Mr. Lamb: What was the last statement?

Mr. Nunneley: What you said.

Mr. Lamb: What was the last statement? You mean that I said?

The Master: Yes. The last statement you said that it would do no good to protest because she would lose her job. It might do no good to protest for some other reason. If you want to ask her why she didn't protest, it might be competent. • • •

Q. (By Mr. Lamb): Why didn't you protest to the manager?

A. For the simple reason that if I protested I would either lose my job or be given a job where I couldn't make any money.

Mr. Cooper: We move the answer be stricken as being a conclusion, not shown to be based on anything in the nature of a fact.

The Master: I will overrule the objection. You are raising the defense, the fact that they didn't protest: I think that becomes relevant as to what the reason was the employees didn't protest.

Mr. Lamb: Without waiving the objection to the matter of making the proffer, and reserving the right to ask that the witness herself be allowed to state the evidence she would give if permitted so to do, counsel for the plaintiffs states that if this witness were permitted to answer, she would testify from Exhibits 59 and 59-A, that during the period ending June 17, 1941, she produced 460 dozen of 7-inch plates, the piece rate thereon being $8.90 per hundred dozen.

That by reason of said production during said period, the plaintiff earned $40.94. That there was deducted therefrom the sum of 41 cents for social security, leaving a net which she had earned of $40.53. That the check given to her for the two week period ending June 17, 1941, amounted to $40.19. That the difference between the amount earned on said piece rate and the amount of the check given her was 34 cents, and represents a charge for a sizing brush, charged against this employee witness; that said charge of 34 cents was made for sizing brush, the type of which can be bought any place else for 20 cents.

That Exhibit 59-A represents this witness' record of her production during each of said days, and Exhibit 59 represents a payroll voucher stub given to this employee witness. * * *

Cross Examination

By Mr. Nunneley:

Q. Do you belong to the Union that brought this suit?
A. That is right.
Q. Do you hold an office in it?
A. Yes, I do.
Q. What office do you hold?
A. I am temporary recording secretary.
Q. Temporary recording secretary. And how long have you had that job?
A. I don't know exactly, but I think it was October.
Mr. Lamb: October of what year?
A. Of 1941.
Q. (By Mr. Nunneley) Was it communicated to you that you were supposed to bring the books and records here?
Mr. Lamb: Objection.
A. No.
The Master: I didn't make such an order. I took it under advisement.
Mr. Nunneley: We will ask it now, that the secretary be required to produce them.
The Master: Have you custody of the books and records of the Union?
A. No, I do not. I have the minute book, and I haven't that in my possession now.
The Master: Who does have custody of the records?
A. I don't know where that is.
Q. (By Mr. Nunneley) You said you have a minute book? Did you say that a minute ago?
A. I have charge of it, but I haven't it.
Q. You don't know who has got it now?
A. No.
Q. Who did you give it to last?
A. My boy friend took it down to Mt. Clemens and gave it to the hall.

Q. Who is your boy friend?

A. Jerry Schom.

Q. You gave it to Jerry Schom and he took it down to the hall. From there it disappeared, is that right?

A. What happened to it, I don't know.

Q. There isn't any reason why you don't want to produce the minutes, is there?

Mr. Lamb: Objection.

The Master: I will overrule it.

A. I wasn't asked to produce it.

Mr. Nunneley: I am going to ask the court to order the witness to produce it. * * *

The Master? Do you have any idea where that minute book is?

A. No, I don't.

The Master: So far as you know, is it missing so that nobody knows where it is?

A. I don't know that.

Q. Are you supposed to have custody of it?

A. I believe I am.

The Master: Were you with your friend when he took it down to the hall?

A. No, I wasn't.

The Master: Well, I don't know how I can order the witness to produce a minute book that she doesn't have and doesn't know where it is.

Mr. Nunneley: I think, then, that the plaintiff can be ordered to produce it. You ordered this corporation of ours, this company, we are directed to produce records, and we assume that we will be in contempt or something if we don't produce them, and we produced them.

So we will ask now that this Master direct the plaintiff Union, the recording secretary of which is here and the attorney of which is here, to produce those records. * * *

The Master: Do you have the constitution of the Union in your possession?

A. No, I haven't.

The Master: Have you had it in your possession?

A. No.

The Master: Do you know who has that?

A. No, I don't.

The Master: What about the by-laws?

A. I don't know who has that.

The Master: Have you ever seen the constitution?

A. No. I haven't. * * *

The Master: Can you produce the constitution and by-laws of the Union?

Mr. Lamb: I don't know: I suppose so; I don't know any great reason why not.

The Master: There wouldn't be any very substantial objection to that; there wouldn't be any question of privilege?

Mr. Lamb: I don't think so; I have never seen them; I don't know anything about them.

The Master: I will ask you to bring the constitution and by-laws in.

Mr. Nunneley: I think he should be requested to bring the minutes in too.

The Master: I will first see the constitution and by-laws. Maybe the issue that Mr. Cooper is raising will be settled by the constitution and by-laws.

Mr. Lamb: I will say this, I don't know where to look for—

Mr. Cooper: (Interposing) This, of course, is the second request we have made for this, your Honor.

The Master: That is true. * * *

Q. (By Mr. Nunneley) You worked there since when, at the pottery?

A. April 8th, 1937.

Q. The method of keeping track of the time, the time cards, was just the same all the time you were there?

A. Will you repeat the question?

Q. Was the method of keeping time and figuring the hours on the time cards just the same during all the while you were there?

A. Yes, it was.

Q. So that as far as the method of figuring, that was the same all from 1937 until the time you quit here in November, is that right?

A. Do you mean we punched in at different times, or what?

Q. I say, the method that they figured up the number of hours by, that was just the same, wasn't it?

A. I believe it was. * * *

Q. You knew during all the time you were there that they figured your time from the time you went in there started at the next quarter-hour, you knew that, didn't you?

A. I don't understand that.

Q. Well, on the card here, Exhibit 58-A, there are certain figures in red pencil?

A. Yes.

Q. Do you know what those are?

A. Yes, those are the hours I worked.

Q. Those are the hours you worked. And those were figured on all your cards every day, isn't that right?

A. That is right.

Q. Now, you worked in the decorating department?

A. That is correct.

Q. And you did what they call decal work?

A. That is correct.

Q. How does this decal stuff come? I might say, if the Court please, I have asked my client to bring some of it down here tomorrow so that we could have the witness show you how it works, and perhaps everybody could see better how it works. It comes in sheets, does it?

A. In a great big sheet.

Q. About how large are the sheets?

A. Oh, I don't know the exact dimensions. I would say about 3 feet long and about 2 feet wide. I am not sure if that is right, but that is approximately.

Q. Scattered around on there, I suppose, are the flowers?

A. That is right.

Q. Whatever the design is, might be flowers, might be horses, or most anything, is that right?

A. Yes.

Q. To get those so that you could use them, you had to cut them out of the sheet, is that right?

A. No, a girl pinned them together according to the different types of ware, and they were cut in long pinnings, and we had to cut these pinnings into bunches.

Q. You had to cut the things out so that you could put them on a plate?

A. We cut 16 sprays at one time when we cut a bunch.

The Master: What do you mean, you cut 16 sprays?

Q. (By Mr. Nunneley) They piled them up?

A. That is right.

Q. So they were 16 thick, similar to the way I am holding the time cards?

A. If they were seconds, they were not 16 thick. If they were second print; like if they had to run torn prints, there would not be 16. There would be less, and we had to sort them as we printed our ware. We lost time doing that, too.

Q. Anyway, as you worked, you would take your scissors to cut that out?

A. That is right.

The Master: Cut through 16 thicknesses with the scissors?

A. Yes.

Q. (By Mr. Nunneley) It is quite thin, is it?

A. Yes.

Q. That is the work you use the scissors for, is it?

A. Yes.

Q. We will say that these cards that I have here, being Exhibit 58-A down to MM, if you were going to use these figures on here for decorations, you would just cut along the decorations around, is that right?

A. Yes. We would have to snip off the ends and then cut around.

Q. And got them in shape to stick them on the dish?

A. That is right.

Q. You spent some time every day doing that?

A. Yes.

Q. And during all the time you worked there, you always spent some time doing that?

A. I spent an hour each day cutting print.

Q. After you got through cutting them out, what did you do with them?

A. I piled them in my box and used them the next day.

Q. In other words, that was all part of your job, wasn't it?

A. I wasn't told that when I started in there.

Q. But from the very day you started, that is the way you did it?

A. I was told the number of dozens, what I would get. But I was told the price of the number of dozens, they didn't tell me I had to do this.

Q. But from the very first day you started, it did include it, didn't it?

A. I was paid by the hour at first.

Q. You were paid by the hour, because you didn't earn the amount, is that right?

A. Because I didn't do the amount of dozens.

Q. That is right. So that they took up whatever you earned and added enough to it to make you whatever the hourly rate was, didn't they? * * *

A. Yes. * * *

Q. And that continued until you were able to earn more, didn't it? * * *

A. That is right. That was only two pays that I was paid by the hour.

Q. Only two pays. After that you got skillful enough so that you could earn more than that.

A. I wasn't the first day, but I was scolded if I didn't hurry up and make my day rate, I would be fired, they would get someone else in my place to do that work.

Q. You were told to do your rate, so you got up to it inside of two pays, is that right?

A. That is right.

Q. And, since that time you have been about it all the time, is that right?

A. I have been above my rate all the time.

Q. You have been above the rate all the time?

A. When the new pattern was started, I fell below it. You see, one week was the old pattern and I made over my day rate that week.

Q. Yes.

A. And the amount that I made over my day rate for the next week of the pay when I was on the new pattern some days I did not make a dollar but what I had made over from the first pay was added to the amount to balance it up that I was paid the minimum rate.

Q. That you were paid the minimum rate for the two weeks period?

A. Yes, but the one week I really made over my minimum rate.

Q. I see. But, during the two-weeks period you did not make over your minimum rate?

A. Not according to my check.

Q. And now often did that happen?

A. That happened when a new pattern was originated.

Q. But, I say how often?

A. It only happened to me—I have only been on one new pattern that I didn't make my rate.

Q. Well, it only happened to you once?

A. But, I have had three checks that I was paid the minimum rate.

Q. (By Mr. Nunneley) By the way, who do you come back and forth to work with?

A. For what period do they want to know?

Q. (By Mr. Nunneley) Up until April, 1941?

A. Up until April, 1941?

Q. Yes.

A. From the time I started working there?
Q. Yes.
A. Well, sometimes I drove and sometimes I rode with a fellow from New Baltimore.
Q. The names, please?
A. Edward Hishon.
Q. Is that the only one?
A. No: I rode with Loretta Rivard. • • •
Q. (By Mr. Nunneley) What department did she work in?
A. The decorating.
Q. The same department you did?
A. Yes.
Q. Did she work all the time you did?
A. She started at the same time I did.
Q. Worked there up until the time you left your job?
A. That is right.
Q. How often did you ride with her or she with you, either way?
A. You mean all the time?
Q. How often did you come together?
A. When I rode with her I came every day.
Q. What period, then, did you ride with her? • • •
A. I don't know. I had another rider I just happened to think of now.
The Master: Who was that?
A. James Plegue.
The Master: Was he the driver?
A. Yes.
Q. (By Mr. Nunneley) Could you tell us when it was that you were riding with Loretta Rivard?
A. Well, when Mr. Plegue got a job at New Baltimore, I quit riding with him.
Q. Were you riding with Miss Rivard during 1941, or 1940, or 1939, up until the time of the strike?
A. I rode with her a few months in 1941.
Q. A few months in 1941?
A. Yes.

Q. That would be up until the time of the strike you were riding with her?

A. That is right. . . .

The Master: How far back?

A. I don't know exactly the year. I think it was—I am not sure about this, but I think it was around 1939.

Q. (By Mr. Nunnsley) Did you ride with her in 1940?

A. I don't remember offhand if I did or not. I have driven my own car and I rode with these other people, and I can't remember exactly.

Q. From January to April, 1941, did you ride with Loretta Rivard?

A. January, 1941, to April?

Q. Yes. . . .

A. I don't remember.

Q. Don't remember any time in 1940?

A. I don't remember if I did or not.

Q. Where did Mr. Hishon work?

A. He worked, I think it was the glost belt.

Q. Glost belt department. And, James Plegue, where did he work in the plant?

A. I don't know where he worked. . . .

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The Master: Were you able to get the constitution and by-laws?

Mr. Lamb: No, I haven't. These people I talked to last night, I mean the people that are in attendance, don't have them. I haven't talked to anyone else.

The Master: Then, over the adjournment, why, you can undoubtedly get them, and bring them back. . . .

(The sheet above referred to was thereupon marked Exhibit 60, by the reporter.)

Q. I show you the sheet that is marked Exhibit 60.

Is that a sheet of decal, as you call it (handing exhibit to witness)?

A. That is.

Q. And is that the way you get it?

A. No.

Q. No. And, that is the way it is kept in stock, is that right?

A. That is correct. * * *

(A sheet was thereupon marked Exhibit 61, by the reporter.)

Q. (By Mr. Nunneley) Is Exhibit 61 what is known as a pinning?

A. That is known as a pinning, and this is what I meant by the attachment (indicating). See, sometimes this has run into this (indicating). It has come right under here, and in cutting, we have to zig-zag, but this is more where I could cut more straight across. * * *

Q. (By Mr. Nunneley) How is it determined how many you get?

A. By the number of dozen we do; we order our print.

Q. In other words, that is what I am getting at, you order your prints from the print room yourself?

A. That is right.

Q. And you order what you expect to do of that pattern?

A. And sometimes we don't get the full order.

Q. Yes, I know. I say, you do order—that is determined by your own judgment of how many you are going to be able to do?

A. That is right.

Q. The next day?

A. Yes.

Q. And customarily what time during the day do you put in your order for these prints?

A. We put in our order when we come back after dinner.

Q. At noon?

A. After I have punched in.

Q. After you have punched in you go over there and put in your order for the prints?

A. Sometimes it is done in the morning, if the charts are up. It depends on when the charts are marked that says what kind we have for the next day.

Q. You look at the chart and see what kind of ware you are supposed to work on the next day?

A. That is right.

Q. Then you go over to the print shop, or the print room, and you order as many prints as you expect to do the next day?

A. That is right.

Q. And that depends entirely on yourself how many you order, doesn't it?

A. That depends on myself, but it doesn't mean that I can do that many the next day. It depends if I am given any charity work, then I can't do that much.

Q. All right; you order the number you expect to do the next day?

A. Yes.

Q. In other words, they don't put on to you the number you have to do, do they?

A. No.

Q. Then the girl that is in the print shop, she puts them from what is Exhibit 60 into Exhibit 61, is that right?

A. That is right. . . .

Q. (By Mr. Nunneley) When do you get the prints?

A. When do I get it?

Q. Yes.

A. Just before I start cutting.

Q. Well, all right. And when do you start cutting?

A. An hour before I punch the time card.

Q. And who determines that?

A Well, we have to allow an hour to cut that print.

Q. In other words, you have to determine enough time sometime during the day to cut your prints for the next day, is that right?

A. Yes.

The Master: Do you keep a watch, or is there some signal given when you are supposed to start?

A. Well, I have my watch.

The Master: You just look at the watch and decide about the time you need?

A. Yes.

Q. (By Mr. Nunneley) That is also a matter that is up to you, how quickly you can cut them and get ready for your next day's production, isn't that right?

A. That is right.

Q. So you do that after you have finished your quota or the number of pieces that you are going to finish, like today, then you go and get your prints and cut them for the next day, isn't that correct?

A. That is right.

Q. Isn't this correct, that the work like you are doing today, that is, it has to be completely finished or it will spoil? It can't stay overnight, isn't that right?

A. It can not stay overnight.

Q. It can not stay overnight. So that whatever work you are going to finish, you try to finish sometime before quitting time, don't you?

A. That is right.

Q. Then you get your prints and get those ready for the next day?

A. That is right. * * *

Q. After you get the print, after you get one of these prints like Exhibit 61, what is the first thing you do with it?

A. The first thing I do is get my scissors and snip the ends off, the sides. * * *

Q. That is to get right down to the edge of the thing?

A. Yes. * * *

The Master: In other words, you have to cut these patterns down so there is almost no extra white showing?

A. That is right.

Q. (By Mr. Nunneley) Then what do you do?

A. Then I trim the shape of the print.

Q. And by doing that, you cut out the pattern that is shown there?

A. That is right. * * *

The Master: Then, after you have cut into bunches then what do you do?

A. We stack them up and put them in our box. * * *

Q. And the next day you get your prints from them and proceed to put them on the plate, is that right?

A. That is right.

Q. Now, during all the time that you have worked there, has what we have just described been the procedure for getting your work ready?

A. Well, we always had to get our print and cut it for the next day.

Q. Cut it for the next day. That has always been part of your occupation there, hasn't it?

A. That is right. One occasion I had to move, and the foreman didn't tell me until very late, and I asked him if I could take my print home. He said no. So, then, the next morning I had to cut it before starting.

Q. He wouldn't let you take it home?

A. No.

Q. That is right. * * *

Q. Now, did you keep track of your production?

A. Yes, I did, from the first—the second,—first strike, I did. * * *

Q. I am asking you about before this suit started. You kept track of your production in a notebook; that is right, isn't it?

A. Yes.

Q. Did you do that during all of the time you were there?

A. I did.

Q. And did you say you did not have any of those notebooks now?

A. I never kept them, because before the first strike I never knew I would never have the chance to present this notebook.

Q. Never had a chance to present this notebook?

A. I never thought this opportunity would come that I could present it in court.

Q. Oh, that you could present it in court. Did you know that you were paying for brushes?

A. Yes.

Q. You knew you were paying for them. And, how many brushes would you use in a year?

A. Well, a rubbing brush, between two and three a year.

Q. Yes, and what—

A. (Interrupting) And the size brushes, I used more of those.

Q. Well, how many size brushes, would you say?

A. Well, I would say three or four.

Q. Three or four size brushes, and a couple of rubbing brushes in a year?

The Master: How many sponges would you use in a year?

A. Well, a sponge I didn't use so much. I think I have had, since I have worked there, about two or three sponges.

Q. (By Mr. Nunneley) You have had two or three sponges; let us see, you have been there about five years, haven't you?

A. That is right. You see, I am a flat worker and I don't have so much for a sponge as a hollower.

Mr. Nunneley: I move that the answer be stricken as not being responsive. I asked her how many sponges she used.

The Master: I will leave it in; I think it is responsive to the question; it is some interesting information.

Q. (By Mr. Nunneley) You knew you were charged for those articles?

A. Yes, I knew it because my pay was short.

Q. That is the only way you knew it?

A. Yes.

Q. Didn't anybody ever tell you when you started that you would have to pay for the brushes?

A. No, when I started I wasn't told that.

Q. They gave you a brush?

A. They gave me one.

Q. And gave you a sponge?

A. But I wasn't able to figure out my pay from the first two pays because I was a new girl and I had no idea; I was told I got that much per hour, but the first day I don't remember how many hours I worked.

Q. I see.

A. It wasn't a full day.

Q. When you started you were getting the hourly rate until you could produce; that was explained to you, wasn't it?

A. I was given the hourly rate for two pays.

The Master: Miss Freddle, who was it that hired you at the plant?

A. Mrs. Grant.

The Master: What is her position?

A. She would hire the girls.

Q. Was she personnel director, or something of that sort?

A. Yes.

The Master: And was she the one that gave you the instructions as to what you were to get?

A. No, she didn't; she just took me to the foreman and introduced me to him and he took me to the girl that broke me in, and this girl told me that I should bring my own scissors, if I didn't want to buy any from the company.

The Master: Wasn't there any discussion between you and Miss Grant, or Mrs. Grant?

A. Just the information that she asked me my age and all that; she said she was going to take me to Mr. Trabue.

The Master: Was there any discussion between you and Miss or Mrs. Grant, or between you and the foreman, Mr. Trabue, as to the compensation you were to get when you started work?

A. I was told I was going to get 25 cents an hour.

The Master: For how long?

A. That was until I was—I think it was a four-week period.

The Master: And what were you to get after that?

A. After that I was to be paid according to the number of pieces I turned out, and there was no mention made about the print—

The Master: Did they tell you the exact amount you were to get per piece you turned out?

A. On that item I was doing, he told me.

The Master: You had some friends that worked at this plant on this job before you went to work there?

A. No, I didn't; not in the decorating department; I didn't know anyone when I went in there.

The Master: The only way you would know what you were getting paid—

A. Hearsay.

The Master (Continuing) —you were told by the foreman or Miss Grant?

A. As far as the hours, the rate per hour, what I was to get for this item I was broken in on.

The Master: After the hourly rate expired and you were to be paid on the piecework basis, was that four weeks after?

A. Yes.

The Master: Were you told by the foreman what you were to get?

A. I was told what it was per hundred dozen; they always figured it per hundred dozen; there was no mention made—

The Master: Any mention made for charges of equipment?

A. No, they didn't say there was any charge for equipment. I was brought my first sponge and equipment.

The Master: In other words, they gave you one of each item of equipment that you needed at the outset.

A. That is right.

The Master: Do I understand nothing was said one way or the other as to who would pay for the replacement?

A. No.

The Master: That is, nothing was said?

A. Nothing was said.

Mr. Lamb: Do I understand the Master asked whether she was given the first brush and first scissors, and so on?

The Master: Yes.

Mr. Lamb: Without being deducted from her pay?

The Master: Yes, I understand she testified to that previously and she just repeated it; that is right, isn't it?

A. That is right.

Q. (By Mr. Nunneley): In other words, the first one wasn't deducted from your pay?

A. No.

The Master: Did the brushes wear out, or was it a case of mis-laying or losing them?

A. The rubbing brushes, but in the size brushes, there are different sizes, and if you did big ware the foreman wanted you to use a larger brush, if you did smaller ware he wanted you to use a narrower brush, and inasmuch as I was changed, sometimes, the change was at longer intervals, and then I would have to lay the one brush aside and if I was changed back onto that item sometimes that brush was of no use, the hair would be out and I couldn't use it.

The Master: When you started to work, how many brushes did they give you; in other words, did they give you the different sizes?

A. No, they didn't they just gave me the one that was of the size of ware I was doing.

The Master: When you came to different size ware did they give you the first brush?

A. No, I had to get that brush and it was deducted from my pay.

Q. (By Mr. Nunneley): How long did you work on the first kind of ware?

A. I don't remember; I imagine it was about three months.

Q. In other words, you worked on the first kind of ware until a time when at least you were earning more than the 25 cents an hour?

A. That is right.

Q. You earned more than 25 cents an hour within two weeks, I think you said?

A. Yes.

Q. And isn't it true that you were told that just as soon as you earned more than that at the piecework rate, that that would be paid to you?

A. That is right.

Q. And that is what happened, isn't it?

A. Yes.

Q. When did you first find out that you had to pay for any brushes?

A. Well, I was short on my pay.

Q. I say, "when".

A. I don't remember when it was; I don't remember when the first time I brought a brush was.

The Master: Can you give a rough idea, what is your best guess as to how long after you started to work there that you found out or were short on your pay?

A. I imagine it was the first part of 1939.

The Master: And you started to work there what time?

A. I mean—wait a minute—'37—'38 I bought a brush.

The Master: The first part of '38?

A. Yes.

Q. (By Mr. Nunneley) Then as soon as you bought the first brush, at least then you found out that you were paying for it?

A. Yes.

Q. And who did you get the brush from?

A. I got it from the print office.

Q. You went to the print office and got the brush?

A. Yes.

Q. Who was in charge, a girl in charge there?

A. Yes, sir.

Q. You just asked her for a brush?

A. I was told to get a brush there.

Q. Told you could get a brush there Who told you that?

A. Well, the foreman.

Q. What had happened to your other brush?

A. My other brush, the size brush wasn't of any use any more.

Q. Yes.

A. The hair came out and it got all over the varnish on the plate.

Q. He told you you could go over there and get a brush?

Q. Yes.

Q. Do you mean to tell us you didn't know by that time you would have to pay for the brush?

A. I knew that the girls would have to pay for their tools after the first one was given to them.

Q. Yes. When did you find that out?

A. Well, I heard that right after I started working there, I knew they had to.

Q. So that as a matter of fact right after you started working there, in some manner you discovered you would have to pay for the tools?

Q. Yes.

Q. So that there were no deductions taken out that you didn't know about, were there?

A. Well, I have been short on my pay sometimes when I haven't bought a brush.

Q. Yes.

A. I don't know what it was for.

Q. Did you ever check up to find out why?

A. No, I didn't. I checked up with my dozens, and the amount does not equal the amount that I should have received.

The Master: On this proposition of rate of pay, were

you paid a different rate, depending on the type of ware that you turned out?

A. That is right.

The Master: Were you always paid, yourself, on the basis for the ware you turned out, or were you paid on the basis of the ware the group turned out?

A. I was paid on the basis I turned out.

The Master: How many different rates of pay were there?

A. Each item had a different price on it.

The Master: How many different items were there, roughly?

A. Oh, I would say ten.

The Master: How did you find out what the different rates of pay were?

A. When I started in there, if I got on a different pattern, different item of that pattern, I would ask the girl next to me.

The Master: Were you ever furnished with any mimeograph sheet or any other form of written instructions as to what the different rates of pay were for the different types of work?

A. If they had a raise on it or something, they would have a paper up on the wall.

The Master: On the bulletin board?

A. Yes. Well, in the department they didn't have any—in my department they had no bulletin board.

The Master: It was on the wall, then?

A. Yes. And that would state the rate, if there was a change made.

The Master: How long was that left up, then?

A. That wasn't up there very long. I don't believe it was up there even a week.

The Master: You kept production records every week you worked there?

A. I have, but I haven't them previous to the strike.

The Master: Did you each week check up and compare the amount that you thought you were entitled to

by your production records, with the amount the company paid you?

A. Yes.

The Master: Then if there was a difference between the two, what did you do?

A. If there was a large difference, I told them, but if there was a small difference, I never mentioned it. And I had a difference here about a year ago of $4.00. I told them about that. But if it was a matter of 45 cents or less, I never mentioned it.

The Master: Were you usually able to trace these differences down to the purchase of a brush or something of that sort?

A. Well, sometimes I figured the deduction was for that. When I bought a brush, I could always know it was deducted.

The Master: Now, this incident a year ago when you found a $4 difference between the pay that the company gave you and the amount which you were entitled to according to your production records, you say you complained. Who did you complain to?

A. I told my boss, Mr. Trabue. And Mr. Friedberg is the one that figured up the pay.

The Master: Mr. Friedberg, is he in the office?

A. He was then, I think.

The Master: Then what happened when you complained?

A. Then they discovered that they forgot to mark me for one day's work and I was told that the next pay I would get it or else Mr. Friedberg could take it out of his own money if I didn't want to wait, and I said I would be willing to wait.

The Master: Who told you that? Mr. Friedberg?

A. Mr. Friedberg.

The Master: Did you get it the next pay?

A. I did.

Q. (By Mr. Nunneley) And you didn't get fired?

A. No.

Q. Did you have occasion to make any other complaints besides that one?

A. What do you mean, in what regard, complaints?

Q. Regarding your amounts of money that you received.

A. No, I never complained otherwise.

Q. So that excepting for that one occasion, all the other occasions appeared to be for things that you had purchased, is that right?

A. Yes, but I have one occasion here since the first strike— . . .

The Master: I think I will have to restrict this to before the first strike. Do you have any occasions before the first strike?

A. Not any other than the $4 that was missing; I did not complain otherwise.

The Master: Does that mean that you never did make any complaint about the rate of pay except on this one occasion before the first strike, or does it mean you don't remember whether you made any other complaints?

A. I don't think I made any other complaints.

Q. (By Mr. Nunneley) Now, something was said about centering, and we marked on Exhibit 60, the pattern, the item that is a center, is that right?

A. That is right.

Q. Now, that centering, to start with, that item is an item that goes directly in the center of the plate, is that right?

A. Yes.

Q. And why would it be necessary to do the job over?

A. Because it would blister when it went through the kilns.

Q. Because it would blister when it went through the kilns. And would there be any other reason?

A. Well, if there were paper left on and it went through the kilns, there wouldn't be a center on the plate.

Q. Would there be any other reason?

A. If it were scratched when put on the pin board.

Q. And any other reason?

A. Well, I don't see any other reason, other than that it isn't a perfect center. There was some flaw on it, then it had to be taken out.

Q. Now, those were all articles that you or the other girls on the same pattern had been paid for doing?

A. That is right.

Q. And if they turned out bad, at least in some instances, they came back to you, didn't they?

A. Well, whenever centers were returned, I always seemed to have my share.

Q. You did. There wasn't any way of determining if there were, say, five girls doing that particular pattern, there wasn't any way of determining which ones any particular girl did?

A. Not unless they inspected that particular person's work.

Q. I say after it has gone through the ordinary process of going through the kilns, there wasn't any way of determining which ones you did or which ones somebody else did, is that right?

A. No.

Q. About 3 years ago. And, since that time you have been putting centers in?

A. If I am doing that item.

Q. If you are doing that item?

A. I mean, if I am doing this pattern 600.

Q. That particular item.

A. If I were on another pattern, then I wouldn't be brought in.

Q. In other words, these centerless center jobs came back to the girls, presumably at least, who did them in the first place?

A. That is right.

among the number of girls who did it, isn't that right?

A. Not always equally.

Q. Well, pretty nearly equally, isn't that right?

Q. Well, as a matter of fact, that job was divided up

A. Quite.

Q. What is that?

A. Quite.

Q. Quite equally. They didn't count every one?

A. No.

Q. But, they gave you each a stack about the same size, didn't they?

A. A boy would go down the line and he had a stack, and sometimes if the girl was working on another line that did that item, and he overlooked that girl, that girl didn't get any, and these girls in this row did. Oftentimes—

Q. (Interposing) That would be a mistake on the part of the boy for overlooking her, wouldn't it?

A. That is right.

Q. In other words, there wasn't any intentional effort to load any one of you up with any more than the rest of you, that work, isn't that right?

A. That is right.

Q. And you say this centering business happened every day?

A. No.

Q. How often would it happen?

A. There was very seldom a week went by that I didn't get any.

Q. You would say once a week, or once every two weeks, you would get them?

A. Well, I would say sometimes I would do it once a week and then there might be a time I might skip a week and might not get any.

Q. How many do you generally have—would you have ordinarily?

A. Sometimes a dozen, sometimes less, sometimes two dozen. All the way from a half dozen up to ten dozen.

* * *

Q. And to do a dozen would take you how long?

A. To do a dozen? Well, it would at least take me 15 minutes.

Q. About 15 minutes. So that about once a week or so you may be required, or you might have to spend 15 minutes doing that?

A. That is right.

Q. (By Mr. Nunneley) Now, on this centering business, if there were scratches on there, who ordinarily would that be caused by?

A. The scratches could be caused by the decal girl, or the liner.

Q. You would be the decal girl?

A. Yes.

Q. And if there was too much white paper left on there, whose fault would that be?

A. That would be the fault of the decal girl in dipping.

Q. In other words, that would be your fault?

A. That is right.

Q. What else did you say happened to them?

A. I said they blistered, scratched, or paper left on them.

Q. And blistering, what caused that?

A. Well, the girls were blamed for that, but I don't believe we were to blame for it because the size is never the same texture on account of the weather—

Q. (Interposing) I didn't ask you just that way; you said the girls were not to blame; I asked you if you knew what caused it.

The Master: She is telling you.

Mr. Nunneley: We will give her a chance to explain. I asked her now if she knew what caused the blistering?

A. Weather conditions could cause blistering, and not rubbing print down hard enough, or improper sized coat.

Q. If it wasn't rubbed down hard enough, whose fault would that be?

A. The decal girl.

Q. And that would be your fault, if you were doing it?

A. That is right.

Q. What else did you say could cause it, the weather?

A. The weather; we didn't have an even temperature in the decorating department.

Q. Change in temperature might do it?

A. Change in temperature might do it.

Q. In other words, what kind of a change in temperature?

A. Well, if it rained a lot; our size was never the same from one day to the next; you could always see the difference.

Q. The size was never the same. By "size", you mean—

A. The varnish.

Q. (Continuing) —the varnish that you put on. So the fact that the centers were wrong, if they were wrong, was generally due to something the decal girl had erred in, is that right?

A. I say it is not always the decal girl, sometimes it is the weather. * * *

Mr. Nunneley: Of course, the witness says she hasn't made any complaint about those things, anyway; have you?

A. I haven't to the foreman. I have made—not I, but in the department, the group of girls made a complaint about the wages.

Q. When was this?

A. This was on that new pattern.

Q. I say when?

A. The new pattern, when I was put on it, was in May.

Q. May of what year?

A. 1940. And all the girls that did that pattern—

Q. (Interposing) Were you in that group?

A. Yes, I was. But I wasn't the spokesman.

Q. You made a complaint about your wages to whom?

A. To Mr. Trabeau. All with the exception of a very few girls on that pattern. And he said there wasn't anything that could be done about it, we should go to see Mr. Doll. So there were a few girls that went to see Mr. Doll.

Q. Which Mr. Doll?

A. Mr. Doll, Senior, I think. I don't know; they went to see Mr. Doll, that is all I know.

Q. That is all you know about that?

A. And we were then paid the minimum wage, and some of us had been making over the minimum wage, but on this new pattern we were paid the minimum wage and the other girls that had just started there were making way over the amount of money we were, but it was always the older girls that were put on the new pattern, and we suffered the loss in pay.

The Master: What do you mean by minimum wage, 25 cents an hour?

A. No, at that time it was 30. • • •

Q. Of course, you don't know what took place when they were there, excepting what somebody else told you?

A. That is right.

Q. Who were the people that went to Mr. Doll, that you know of?

A. I just know of one girl in particular and that is do you want to know her name?

Q. Yes.

A. Agnes Pelkey.

Q. Agnes Pelkey?

A. Yes.

Q. Nothing was done about it, is that right?

A. We were paid the minimum wage, that was all that was done.

Q. That is all that was done. No change was made in the rate on the article?

A. Not at that time.

Q. Well, was a change made?

A. Later on they had a slight raise.

Q. They had a slight raise. I see. How much later?

A. I do not know exactly.

Q. Well, approximately how much later? • • •

A. I would say about a month later they made a raise on 5 inch fruits, and that was the item I started out on.

• • •

Q. You were not discharged for your part in that affair, were you?

A. No. I asked to be taken off of 5-inch fruits, and I had to almost go on my knees to be taken off of it because I was used to doing big ware.

Q. I see. So you, not being satisfied with doing 5-inch fruits you sought to be taken off of it?

A. I asked for a change, because I was accustomed to doing big ware.

Q. And after some persuasion you succeeded in getting them to do that?

A. Yes, I finally did that.

Q. They did that?

A. Much persuasion.

Q. And they didn't discharge you for doing that, did they?

A. No.

Q. Now, your job consisted first of cutting out prints, didn't it?

A. That is right.

Q. And then putting the varnish on the ware?

A. Yes.

Q. And then you put the print on the ware?

A. Yes.

Q. And then you rubbed it down?

A. Put the print on the side first and then scratched the ware up.

Q. Yes.

A. And then took the center piece out and went through the whole stack over again to put the centers in.

Q. Yes. And then what did you do?

A. Then I had to rub the same down with a brush.

Q. Rub the same down with a brush, and what did that do?

A. That rubbed the print into the ware.

Q. Yes.

A. Into the size.

Q. And then what became of the ware?

A. Then it was,—first we had to rub the sprays down and take a stack and dip it in our tub.

Q. Yes.

A. And the paper would come off.

Q. Yes.

A. And we had to take the size off if there was any on the edge.

Q. Yes.

A. So the line held.

Q. Then what?

A. Then we put them up on the rack.

Q. Up on the rack. And, where was the rack set?

A. Right in back of our bench.

Q. Right in back of your bench. And what became of them from then on?

A. The liner lined the ware after that.

Q. They were taken over to the liner, wherever she worked?

A. That is right.

Q. And who counted them?

A. I counted them.

Q. And what did you do, put a ticket on the ware that you had that day?

A. There was a time, yes, I had to turn in a ticket to the print room for each—they were alphabetically lettered little boxes, and we had to put our ticket in the print box.

Q. So that at the end of each day you put in the box, did you, how many you had done that day?

A. Yes.

Q. And that is where you got the record from that you kept in the little book, is that right?

A. That is right. And, also, we had a print slip, and the same amount of dozens we did each day was marked on the print slip and we had to keep a record of the print that we had lost during the week.

Q. That was all turned in?

A. This record was turned in every week, once a week.

Q. But, did you turn in every day what you had done?

A. Every day what I had done.

Q. That day. And that was your own count?

A. That was my own count, and that was often checked on.

Q. But, it was on that basis, it was your own count, wasn't it?

A. That is right.

Q. And you kept, day by day you kept it in a book?

A. That is right.

Mr. Nunneley: In view of your Honor's ruling before, we offer to proceed to cross examine this witness, and by using in such cross examination Exhibits 58 to 58-MM * * * to show that from this witness herself, that this witness has no claim in this case.

The Master: That is a very broad statement. I wish you would be specific as to the manner in which you intend to proceed on cross examination. I am not restricting you from using the cards to cross examine the witness. I restricted you on a specific method of cross examination.

What you want to do is to show the cards to the witness and ask her in the case of each card to make a computation of the number of hours that she claimed she worked in the given—or each week of the two-weeks' period shown on each card to determine whether or not on her computation there is overtime.

Mr. Nunneley: So that we may—and also for the purpose of having stricken from the record the cards which we maintain have been improperly admitted already.

The Master: Well, I will adhere to my previous ruling on that and not permit that type of cross examination. I am not preventing you from asking the witness about the cards, though, in other ways.

Q. (By Mr. Nunneley): By the way, witness, your pay week in your department started with what day?

A. On Tuesday.

Q. On Tuesday. I want to say to your Honor I ask that because my understanding is this department was

different from those we have talked about. I think the others were Wednesday.

The Master: Is that right?

A. That is right.

Q. (By Mr. Nunneley): And, ordinarily when you went in to work and punched your clock, the first one would be where on the card?

A. What do you mean, the first—

Q. Day?

A. On the time card?

Q. Yes. Where would it show the first day of your pay?

A. It has been quite a while since I worked there, but I think it was at the bottom.

Q. At the bottom?

A. I am not sure of that.

Q. Showing you Exhibit 58-K, the first entry would be at the bottom of the card, would be the first day of the pay, is that right, Tuesday, at the bottom (handing card to witness)?

A. That is right.

Mr. Nunneley: I understand your Honor to say I couldn't have these computed?

The Master: That is right.

Mr. Nunneley: Of course if we can't use the figures to ask this witness questions about—

The Master: If you occasionally have some specific purpose to have one card computed, I will permit that. I am ruling that you can not go through these cards one by one having the cards computed, shutting you off from too extensive a cross-examination. * * *

Q. I understood you to say, Mrs. Freddle, that you were permitted to use your own scissors?

A. Yes.

Q. Throughout the period?

A. Yes, I was asked to buy a pair from the department.

Q. But you didn't comply with the request, is that right?

A. That is right.

Q. You were not discharged for not doing it either, were you?

A. No.

(Discussion off the record as to production of time cards.)

(Time cards of Dorothy May were thereupon marked Exhibits 62 to 62-MM.)

(Time cards of Nicholas Dacho were thereupon marked Exhibits 63 to 63-FF.)

The Master: All right, go ahead, Mr. Nunneley.

Q. (By Mr. Nunneley): I believe I asked you if you knew of your own knowledge what the company paid for scissors that it sold to employees? • • •

A. Oh, I don't know what the company paid.

Q. (By Mr. Nunneley): No; do you know what the company paid for any of the articles which you purchased from them?

A. No, I don't.

The Master: Do you know whether your scissors worked as well as those furnished by the company?

A. I know as far as I was concerned my scissors worked good.

The Master: You don't know how the company's worked; you never used them?

A. Well, I used a pair after that once that I had broken my first pair. I used them for quite some time and the foreman let me use a pair and I was used to cutting with my own and I couldn't cut with them; I was cutting into the print.

The Master: It is largely a matter of what you are used to, isn't it?

A. I was accustomed to mine.

Q. (By Mr. Nunneley): They were not the same, then?

A. No, they weren't.

Q. They were different shape, were they, or different size, or something?

A. They were different size.

Q. So the foreman let you take the pair and give you time to go and get yourself a pair somewhere else, is that right?

A. It was just that one evening that I used them.

Mr. Nunneley: Take the witness.

Re-Direct Examination

By Mr. Lamb:

Q. Miss Freddle, will you advise us of the occasion when Mr. Doll called you into the office and asked you to drop this litigation?

Mr. Nunneley: Same objection. Just a minute. We made an objection to this matter yesterday. It was brought up with Mr. Doll, and your Honor ruled it out.

* * *

Mr. Nunneley (Interposing): As long as Mr. Lamb brought the subject up, I want to call the Court's attention to the fact that Mr. Doll was not called under the rule relative to adverse witnesses.

The Master: He wasn't?

Mr. Nunneley: No, sir.

The Master: Why?

Mr. Nunneley: Because no such statement was made at any time, either when he was called or at any other time, and in order to get him under the rule it is necessary to call him under the rule, or the statute, as we do in the state courts, which is the same practice. If we call them without getting them under there, he is your witness. We just throw that into the picture so your Honor can consider it, because that is the law and that is the rule.

The Master: I will have to see some authority on that. I assumed that Mr. Doll, being the general-manager of the company, was unquestionably being called as an adverse witness. I think he was asked leading questions, without objection.

Mr. Nunneley: That is all right, they could call him. They could call an adverse witness and so designate him if they wanted to.

The Master: I don't think the rule expressly states that they have to designate him as an adverse witness.

Mr. Nunneley: That is right, they may call him and they may do those things if they do it under the rule, but the ordinary rule is when you call a witness he is your witness and Mr. Doll is their witness anyhow.

Mr. Lamb: "A party may call an adverse party or an officer or director or managing-agent of a public or private corporation,"—

Mr. Nunneley: There is no argument as to that rule.

Mr. Lamb: "And interrogate him by leading questions."

Mr. Nunneley: I am not objecting to that at all.

The Master: I think with this one witness, and I am not binding myself as to what I will do with future witnesses, I think probably as to future witnesses I will look up the law over the adjourned period as to the admission of offers of compromise; I think with this particular witness I will exclude the evidence because it hasn't been shown to me it is proper, but I will take the witness' testimony under Rule 44, I believe, Subdivision "(" * * *

Mr. Nunneley: We may have an objection and exception?

The Master: Yes. Your objection is sustained as far as the admission of the evidence is concerned until such time as it is shown proper. * * *

Q. (By Mr. Lamb) Will you advise us whether you have ever been called into the office of Mr. Doll relative to this litigation?

A. I was called into the office, Mr. Trabue came up to me when I was cutting my print, and at this time he was not my boss. Mr. Ermie is my boss, or was. And I was cutting my print, and he asked me if I wouldn't come with him. And on the way to the office he asked me who I rode with, and I thought maybe he had a rider for me, I didn't know what I was being called into the office for. And the reason he asked me this was to see if this rider

had to wait, or something. That is my assumption. So he went into the office with me, and Mr. Doll, Sr., was sitting at the desk and he asked me to sit down, and he started out by saying that I have been a member of this happy family for a long time, and they have liked me and always have found me satisfactory, and asked me what I thought I had coming in back pay. And then I told him about putting in centers, how the girl was paid for it at the beginning and later we had to do the work. And he looked at Mr. Trabue and asked him if he knew about this, and he said, "No."

I said, "Mr. Trabue, don't you remember the girl that put the centers in worked right at the machine?"

And he couldn't recall. So then I told them about cutting print and there wasn't any questioning about that.

Then he said, "Would I have the evidence, the proof to my claim as to what I had coming in back pay, as to deductions and such, and I said I had. He asked me if I could present them. I said, "when the time comes, I will."

Then he showed me this list of names, of the wages and hours, and they were black with white words, the names were written out in white. He showed me my signature and asked me if it was my signature, and I said, "Yes," and he asked me if I signed that out of loyalty to my fellow-union members.

I says, "No, I signed it because I thought I had something coming for the charity work that I have done."

And he says that was all. So Mr. Trabue walked back with me. He said I could work a half-hour longer and stay and cut my print, and that was all.

Q. Did you have a discussion relative to being prosecuted for perjury if you didn't succeed in this litigation?

A. Yes, I forgot to mention that.

The Master: Is this a discussion with Mr. Doll?

A. Yes.

The Master: Wait a minute. Was there an objection to that?

Mr. Nunneley: He asked the witness the conversation. It is certainly suggesting questions, the witness has told the story and said "that is all."

A. Well, I forgot that. He did mention perjury. He said if I couldn't present proof, he said I would be putting myself to perjury, and he says, "That is quite an offense." Because that is when he asked me if I had the proof, and I said I did, and when the time came I would present it.

Q. (By Mr. Lamb, continuing): Do you have any idea when this conversation occurred?

A. Pardon me?

Q. Do you have any idea when the conversation with Mr. Doll occurred?

A. If you are referring to the month—

Q. (Interposing): Yes.

A. I don't know exactly. It was either September—I don't know if it was July, December or October; I mean, August, September or October.

Q. Of 1940?

A. 1941.

Mr. Cooper: If the Court please, I move that be stricken, the testimony the Court received on a separate record pursuant to Rule 43-C.

The Master: I would like to do this about that testimony. I have made a note here to look up the question of law relating to the admission of compromise statements. I would like to do that between now and the time we reconvene and decide whether it should be admitted.

I would also like, if counsel for the defendants are agreeable, to suspend cross examination on that until I have ruled whether it should be stricken from the record.

Mr. Nunneley: I was just going to say we would have to suspend cross examination of the witness on that subject until it is determined whether it is in this case or out.

* * *

Q. (By Mr. Lamb): Miss Freddle, can you tell us who does the janitor work in your department?

A. The girls themselves at the bench.

Q. The girls have to do the janitor work themselves. You don't get any piece rate for the cubic yards of cleaning up their plant for them, do you?

A. No.

Q. And you don't get any hourly pay for that?

A. No. When an inspection tour takes place, why, we have to do very good janitor work. In fact, we have to sweep the water off the floor, where it used to stand about a year ago so that the water wouldn't be in puddles, and climb up on top of our bench and wash off the lamp shades, scrape off the dirt underneath our racks with a scraper so when the inspection tour went through it was a very clean department. • • •

Q. You testified about your having deductions made from your pay, short-changed, or at least the computation of the products manufactured being paid for less than your total production. Do you know of any other girls who were treated in a similar way?

Mr. Nunneley: The witness should be instructed it must be of her own knowledge. • • •

The Master: Do you know of any other instances of that sort, and that means do you know of your own knowledge?

A. Yes. Bessie Nedeau.

Q. Bessie Nedeau. And, anyone else?

A. Irma Klem.

Q. Irma Klem. Anyone else?

A. Well, there were some that were short-changed, but I don't remember.

Q. Do you know of Alice Stoll having been short-changed?

A. Oh, yes. Alice Stoll. • • •

Re-Cross Examination

By Mr. Nunneley:

Q. During all the time that you were there, as I understand it, you only worked on three patterns. Is that what you just told Mr. Lamb?

A. Three patterns.

Q. Three patterns. So that over a period of five years, the matter of changing patterns only happened to you three times?

A. That is right.

Q. What was the name of this girl you were just talking about?

A. You mean this last one?

Q. Yes.

A. Betty Nedeau. • • •

Q. (By Mr. Nunneley): When did this affair we have been talking about happen: what time was it?

A. Of the year?

Q. What year and what time of the year?

A. It happened about, I think, two years ago.

Q. Two years ago in February, is that what you mean?

A. Well, I don't remember when this girl started.

Q. Then it was right after this girl started, is that right?

A. Yes.

Q. And so that whatever—

A. (Interposing): She was short on her fourth pay.

Q. Whatever happened was when she had been going there two or three or four weeks, is that right?

A. No, she had been there eight weeks.

Q. I see. Of your own knowledge, do you know anything about Alice Stoll being short, of your own knowledge I ask you now?

A. Yes, she told me. • • •

The Master: It is hearsay, I will strike it. I might explain to you that under the law the only thing that you can testify to is that which you observe yourself, conversations that you participated in and observed, not what someone else told you was done in their case.

Q. (By Mr. Nunneley): The other girl's name was Irma Klem that we were talking about?

A. Yes, sir.

Q. Of your own knowledge, do you know about that?

A. No, that is the same as Betty Nedeau.

Q. And did that incident that you have in mind, happen when she first started to work, too?

A. No, she has been there a number of years.

Q. When did that happen?

A. She just told me about it last summer.

Q. I asked you when it happened?

A. I don't know. * * *

Mr. Nunneley: Subject to the reservation of cross examination and your Honor's ruling, I presume this witness will be here then at the next hearing.

The Master: She will be here. Not the next hearing, but if I decide it is admissible, or it should be left in the record, then I will direct that she come back.

Any further examination of this witness?

Mr. Lamb: No, your Honor.

Q. (By Mr. Nunneley) Did you look for the constitution and by-laws of the Union; I think I asked you that this morning?

A. I never saw them, so I don't know where to look for them.

Q. You didn't make any search since yesterday?

A. I said I never saw them, so I didn't know where to look for them. * * *

NICHOLAS DACKO, was thereupon called as a witness on behalf of the Plaintiff, and being first duly sworn, testified as follows:

Direct Examination

By Mr. Lamb:

Q. Will you give us your address?

A. I live at 29 North Avenue, Mt. Clemens.

Q. How long have you been an employee of the Mt. Clemens Pottery Company?

A. It was two years ago about the first of February I had my job there.

Q. That would be February, 1940?

A. 1940.

Q. In what department did you work?

A. The glost belt.

Q. And how long did you work?

A. Pardon?

Q. How long did you work; are you working up there now, or have you been out since the strike?

A. Yes; I was fired the 22nd of November, 1941.

Q. That is the occasion of the second strike out at the plant?

A. That is right.

Q. Do you know Bill Stief?

A. Yes, I know him; he is my foreman in the glost belt.

Q. Can you tell us whether or not you have ever had any conversation with Bill Stief relative to the time of reporting for work?

A. On the first day that I worked, Bill Stief had quite a conversation with me about the policy of the company, and one thing he told me was to punch in at 6:46 in the morning with the rest of the workers, and he spoke to me about it, I wasn't very prompt about it, because I didn't think it was right; once in a while when I missed up he spoke to me again. I remember one time that he told me to punch out about a quarter after, but not right on the dot, to be out before quarter after.

Q. Punch out at noon or in the evening at quarter after?

A. In the evening, that is right.

Mr. Nunneley: I suggest that the witness testify and not counsel.

The Master: When was it that you were supposed to punch out, at quarter after or just before?

A. In the evening quarter after four o'clock.

The Master: What about noon?

A. He didn't say anything about noon.

Q. (By Mr. Lamb) Did he advise as to the company policy in that respect of punching out 15—14 minutes after 4 o'clock?

A. He just told me that everyone else did it and I should do it, too.

Mr. Cooper: May the time and place of this conversation be fixed, if the Court please?

The Master: Will you fix the time and place the best you can?

A. The time of the first conversation was the day I first started to work.

Q. (By Mr. Lamb) Which was in February, 1940?

A. That is right, and I don't exactly recall the time of the second conversation; he came to me when I was on my job around four o'clock and he talked to me when I was grinding bats, that was during the first three or four months I was there.

The Master: What was the place of these two conversations?

A. One was in the sagger room of the Mt. Clemens Pottery, and the other was in the coat room.

The Master: The first in the sagger room?

A. The first in the coat room and the second in the sagger room.

Q. (By Mr. Lamb) Can you advise us whether you have in that plant what you call emptiers and unloaders on the glost belt?

A. Yes, that was the job I was transferred to later on. There are emptiers and unloaders.

Q. What are they, emptiers and unloaders of saggers?

A. Yes, we call the men who take the saggers off the car unloaders and the boys who take the ware out of the saggers which was my job just before I was fired, and the boys who sort out the ware as it goes on the glost belt, we call those emptiers.

Q. Can you advise us whether these emptiers or un-

loaders were ever required to come in on Monday mornings and work for some time before they punched in?

A. We were all required, unloaders and emptiers, to come in every morning—this was prior to the first strike—and put in about 15 minutes earlier than we usually were and work about 10 minutes unloading two cars, and go out and punch our cards, after the girls on the glost belt came in.

Q. How many employees would you estimate are in the glost belt department, to which you have been referring?

A. Well, there is about 12 or 15 emptiers, about 8 unloaders, and the girls that fill saggers, I guess there is between 40 and 50 of them. I am not sure. There might be more. But there is probably another 20 men that do miscellaneous work. • • •

Q. (By Mr. Lamb) Are you aware of any janitor work having been done by the people in your department after the production line ceased?

A. Well, on my job, before the first strike, and almost all the time I worked on the glost belt, I was required to stay after the belt had been shut down and clean up around the glost belt. There was myself and one or two other people that did that.

Q. And how long would this take you to do?

A. Well, it all depended on the work. Sometimes, it took me as much as 45 minutes to clean up.

Q. After cleaning up you went out and punched your clock, or before?

A. And in addition to cleaning up, we had a meeting every night to discuss chipped ware and broken ware.

The Master: In the first place, before you go on to the meeting, answer the question whether you punched out before or after you cleaned up?

A. It all depended whether the meeting was still going on. If the meeting was over with, I would go on and punch out. If it wasn't, I would stay until the meeting was over.

The Master: Did this meeting take place before or after the cleaning?

A. When I started cleaning up, the rest of the boys went to the meeting. Sometimes, I would get done before the meeting was over, and I would have to go over there.

Q. (By Mr. Lamb) Was this in the department you were in, about—

A. Yes, about ten of the boys.

Q. And then addressed by your foreman?

A. Bill Stief.

Q. And you discussed chipping, and so on?

A. Company losses in general.

Q. Were you paid for this janitor work, cleaning up and so forth?

A. No.

Mr. Cooper: Objection to that, as calling for a conclusion.

Mr. Lamb: There is no conclusion. I asked whether he got paid for it, or whether it was charity work.

The Master: Did you get paid for it specifically, other than what you may have gotten for doing your regular piece work?

A. No.

The Master: I don't have clearly in mind whether you punched out before or after this janitor work was done?

A. No, I stayed until after the janitor work was done. In that way—I can explain that, too.

The Master: Did you then go and punch your time card, or did you punch it before?

A. Sometimes I punched it and sometimes I didn't. It all depended how much time I had. If it was figured it would run over my 40 hours for that week, I was required to punch my card, If not, I didn't have to punch it.

The Master: You punched your card every night at some time, didn't you?

A. That is right.

The Master: The question is whether you punched it before or after this clean-up work took place?

A. After.

The Master: After the clean-up work took place?

A. That is right.

The Master: In every instance?

A. Well, there were a few that I—in the few instances I punched out and then came back and cleaned up, but they weren't very frequent.

Q. (By Mr. Lamb) How long did these meetings usually take?

A. Oh, at least 15 minutes. Sometimes they would take us upstairs and we would be in there an hour and a half or two hours, discussing the company's policies and unions and such.

Q. Who would those meetings be addressed by?

A. Bill Stief. • • •

Q. Did you get paid for the first day that you worked there?

A. No. I did not. I was especially instructed not to punch my card that day by Bill Stief, my foreman.

The Master: What did you do that day?

A. I ground bats. I started to work about 9 o'clock in the morning and the boy taught me how to do the job, and I went home for dinner in the afternoon. I took over the job myself, and I worked on it for the rest of the day.

The Master: Without anyone advising or directing you?

A. That is right.

Mr. Cooper: I move that be stricken, if the Court please. • • •

The Master: It might come under the claim of beginners getting less than the minimum they were entitled to. If it just pertains to one day, I think I will leave it in.

Q. (By Mr. Lamb) Are you aware—can you advise us as to the status of the men who unloaded saggers staying until the cars were cleaned up, and any janitor work done on Fridays?

A. That was in the department which we were work-

ing hand in hand with, and those men as well as the emptiers had to stay until all the cleaning up was done on Saturdays and on—or, Friday, and all the cars were squared off on the Friday night as a finishing touch of the work for the week, and the men had all to stay until those cars were all squared off, and everything on the belts was cleaned up, and swept up and everything, and the girls also had to come back in at night after they had punched the cards, and clean up around their benches.

Q. Are you aware of the girls in the glost belt ever having to come back and clean up on Friday evenings?

A. That is right. They did it every Friday evening.

Q. After they had punched out?

A. After they had punched out.

The Master: Were you in the glost belt department?

A. Yes, sir.

The Master: Is that the department that has the saggers?

A. That is right.

Q. (By Mr. Lamb) Are you able to give us any information relative to employees being docked for arriving late?

Mr. Nunheley: That is a matter that, I think, the witness should be instructed the same as the preceding witness, to testify only to matters which he knows of and of which he has knowledge. . . .

The Master: In answering that question, the only information you can give is what you know of your own personal knowledge. . . .

The Master: Do you know of any instance where employees actually were docked? I think that was the question Mr. Lamb was asking.

A. I don't know of any instances where they were.

The Master: Were you ever docked yourself for arriving late?

A. No, I wasn't.

Q. (By Mr. Lamb) Did you ever see Charles E. Doll, Jr., start the glost belt up as much as 10 or 12 minutes before 7?

A. Yes. I saw him do that quite often. It was his practice prior to the first strike. He made it a point about 10 minutes to 7 to be right at the master switch and start up the entire glost belt.

Q. Did you ever see any employees run for the time clocks so that they could get over there by the time the thing started up?

A. I saw the belt start up a good many times myself, and I had to run to my position at the belt.

Q. As much as 10 or 12 or 14 minutes ahead of time?

A. That is right.

Q. Ahead of 7.

Mr. Nunneley: It would be well to have the witness testify occasionally, now.

Mr. Lamb: He is doing very well.

Mr. Nunneley: I'll say he is. He'll agree to anything you suggest. I will agree to that.

The Master: Confine your statements to objections to the questions, Mr. Nunneley.

Q. (By Mr. Lamb) Were you in on any of these happy family meetings addressed by Mr. Charles Doll, Senior?

A. I believe I was at one last November, 1940, I believe it was.

The Master: Last November, 1940? Last November, or a year ago November?

A. 1940. It was a year ago. * * *

Q. (By Mr. Lamb) I will hand you first Exhibit 63-J and call your attention to an item No. 6 thereon, and ask you if you will explain to us what that indicates (handing exhibit to witness)?

A. Do you mean here, I punched in at 6:49, and punched out again at 7 o'clock.

Q. Yes. * * *

Q. (By Mr. Lamb) I call your attention specifically to Exhibit 63-J, the item 6 I think it is of that card, and ask you if you will explain what that indicates?

A. It showed I punched in at 6:49 in the morning, and reported for work, and the foreman sent me home for some reason or other at 7 o'clock.

Q. Did you get paid for that time?

A. No, I did not. It was just crossed off the card.

Q. That is, there is no computation of time showing on the right-hand column?

A. That is right.

Q. Of the time spent?

A. That is right.

Q. In or about the plant. How long does it take you to go from the time clock to your department or bench?

A. Oh, about a minute or two. It is right near the time clock.

Q. Well, approximately how far would you say?

A. Well, within 125 or 150 feet. * * *

Q. (By Mr. Lamb) I call your attention to Exhibit 63, the first exhibit of this lot, and ask you if you can advise us what these various markings on the column next to the last indicates, and also what "glost belt—Stief" means?

A. This looks like—

Mr. Cooper: (Interposing) Just a moment. I object unless there is something further showing the witness put those marks on the cards, or was there when they were put on or knows something about them.

Mr. Lamb: I am going to find out what he knows about it.

The Master: I will have to, I guess, take an answer to it. I will let him answer.

Mr. Cooper: I think a preliminary question should be asked first.

The Master: It is rather difficult to ask him first what is the basis of his knowledge, unless I know what he knows about it. I will take the answer and then find out what he knows about that.

Q. (By Mr. Lamb) Is that your first time card (indicating)?

A. Yes, and it is just as it was when Bill Stief took it out, excepting the markings on the back which have been erased. Glost belt is what I worked on: Stief is my fore-

man; my name is up above, and these markings here (indicating) are my hours.

The Master: Now you are pointing to the right-hand column where the figures have been written in ink.

A. The ink shows the hour rate, I believe, and the red is piece-work rate; these are all red—blue, rather, and these (indicating), I was told these are the serial number, or number of the job.

The Master: Just a minute, get this in the record. The last statement you made was referring to the markings under the last column—the second from the last column headed "Extra out," is that right?

A. That is right.

The Master: Who told you that that was the meaning of those?

A. I don't know. * * *

Q. (By Mr. Lamb) Well, could you enlighten the Master as to the meaning of Exhibit 63-Q, and referring particularly to item 6 thereon?

A. I believe this card shows one morning that I reported in at 7 o'clock—7:43, was sent home at 7:45, reported back in again at 11:02, worked until 12:05, reported back in at 12:48, worked until 4:08.

Q. And the company's computation of your time for hours worked—

A. Was 3¾ hours.

Q. I notice on Exhibit 63-D the fact that you reported for work each morning in that two-week period at 6:47 A. M., except the very last item, which is 6:46, is that correct?

A. That is right.

Q. And that irrespective of the time checked out in the evening and the time checked out at noon and back from lunch, you are given credit for 8¼ hours worked every day during that two-week period?

A. That is right. * * *

Q. (By Mr. Lamb) I am calling your attention to Ex-

hibit 63-K, I would like to ask you what item 6 indicates there?

A. It shows I punched in at 6:49, I believe it is; punched out at 7:35, and received credit for one-half hour's work at the day rate. * * *

Mr. Lamb: Well, we offer Exhibit 63.

Mr. Cooper: We have the same objection to Exhibit 63 that we had to the other time clock cards.

The Master: All right, the same ruling, and I will admit that.

Mr. Lamb: That is all for direct examination at this time.

Cross Examination

By Mr. Cooper:

Q. How old are you?

A. 20 years old.

Mr. Cooper: If the Court please, I move that all the testimony be stricken, and that the name of this individual as a party be stricken from the record here.

The Master: Because he is a minor?

Mr. Cooper: He is a minor. * * *

The Master: As long as he has filed a designation in accordance with the procedure prescribed by Judge Picard, I think that I should not strike the testimony on that ground. I think that should be up to Judge Picard on proper motion made before him. * * *

Q. (By Mr. Cooper) Are you working now?

A. No, I am not.

Q. Have you been employed since the time you left the Mt. Clemens Pottery?

A. I haven't been employed since I have been discharged by Mt. Clemens Pottery Company.

Q. When was it you said you went to work for the pottery?

A. In February, 1940.

Q. Remember the date?

A. I don't remember the date, but I know it was at the beginning of the month.

Q. Do you know the day of the week when you first went to work for them?

A. No, I don't.

Q. You say it was the beginning of the month, is that right?

A. That is right. It was probably on a Monday.

Q. You think it was probably on a Monday?

A. Yes.

Q. And what was the last day that you worked there?

A. I think it was November 21st.

Q. November 21st?

A. 1941.

Q. 1941?

A. Yes.

Q. That was on a Friday?

A. Yes, it was.

Q. Now, that day you shut down the power so as to stop the belt conveyor system, did you not?

Mr. Lamb: Objection. * * *

The Master: I think if you have some definite purpose in view, I will let you go ahead and ask the question, subject to the right of counsel for the plaintiff to move to strike, if after you have asked the line of questions, the questioning does not appear to be competent. * * *

Q. (By Mr. Cooper) I ask you whether or not on November 21st, 1941, in the afternoon you held your hands on the "stop" position of an emergency switch, thereby stopping the belt conveyor—

Mr. Lamb: (Interposing) Objection.

Q. (Continuing) —before work was done?

Mr. Lamb: Objection.

The Master: I will overrule it until I know what the purpose is. * * *

The Master: Answer the question.

Mr. Lamb: I assume it calls for, what is it, a yes or no answer? Whatever the Master wants.

Mr. Cooper: Suppose we let the witness answer it.

The Master: It is not what I want out of the question. The question was asked. Let the witness answer it. If he cannot answer it yes or no, he can say so.

Mr. Nunneley: You need not look at Mr. Lamb for the answer. • • •

The Witness: What is the question again?

The Master: Will you read it back, please?

(Question read.)

A. I did. • • •

Q. (By Mr. Cooper) Did your foreman tell you to take your hands off the switch?

Mr. Lamb: Objection.

The Master: Overruled.

A. I don't see why I should answer that and jeopardize about $400 I have coming in the National Labor Relations Board case.

Mr. Cooper: I ask that the witness answer the question.

• • •

The Master: I think I will overrule the objection and ask that the witness answer the question.

(Question read.)

Mr. Lamb: There is an objection and the witness said he didn't believe he ought to answer the question, and I ask that the Master instruct the witness about his rights to answer this question.

Mr. Nunneley: The Master should instruct him what to do that is right.

Mr. Lamb: On the basis it is an immaterial matter.

The Master: If I rule a question is proper, the only instruction is to answer the question, unless you should advise him not to answer, and then he would be subject to the penalty for not answering the question that was ruled to be proper. • • •

(Short intermission.)

(Mr. Lamb talks with the witness, showing the witness a blueprint.)

Mr. Nunneley: Just a minute. We have the witness, if the Court please, we don't need counsel over there, and object to that.

The Master: I don't think you had better go over that with the witness while he is on cross examination by the other party. • • •

Mr. Nunneley: Let the record show that counsel, in spite of the Court's order, carried on a conversation with the witness. • • •

The Master: I think I will make the ruling that this question goes to the credibility of the witness, not to an issue directly under the Wage and Hour Act, but rather simply to his credibility, and therefore I overrule the objection and direct the witness to answer the question. Can you re-state the question?

(Question read.)

Mr. Lamb: There is an objection to it.

A. (No response.)

Mr. Nunneley: You don't have to look at Mr. Lamb.

The Master: That is improper, too, to make a comment toward the witness. The question is asked.

Mr. Cooper: If the Court please, I ask that the witness be directed to answer.

The Master: He is directed to answer. I will give him whatever time he needs to answer.

A. (No response.)

Mr. Cooper: Witness, did you hear the question?

A. Repeat it, will you?

Mr. Cooper: Let it be repeated, please.

(Question re-read.)

A. (No response.)

Mr. Cooper: I repeat my request to the Court to instruct the witness to answer the question.

The Master: Can't you answer the question? Did the foreman—he either did or he didn't.

A. (No response.)

Mr. Cooper: I repeat my request that the witness be instructed to answer.

The Master: Will you please answer?

A. We adjourn at five o'clock, don't we?

The Master: You will have to answer the question. I don't adjourn with a question pending, I am sorry to say.

Mr. Lamb: To allay the fears—

A. (Interrupting) We will know all the answers Monday.

The Master: That is right, you have your right to object. The question now having been ruled upon, the witness must answer the question now.

A. I did not hear the foreman say, "Take your hands off the switch."

Q. (By Mr. Cooper). Did you hear the foreman say anything else at that time?

Mr. Lamb: Objection, objection. What else the foreman might have said, he might have said a thousand things that didn't have anything to do with this case.

Mr. Cooper: To save time, I will ask another question, if the Court please.

Q. (By Mr. Cooper). Your foreman at that time was Mr. Stief, was he not?

A. Yes, he was.

Q. Isn't it a fact that Mr. Stief shoved you to one side and turned on the switch?

Mr. Lamb: Objection.

The Master: I will overrule it.

A. Yes, he shoved me to one side and turned the switch back on.

Q. What did you do?

A. I just—

Mr. Lamb: (Interposing) Objection. What did he do? now, what's that—

The Master: I have overruled the objection. Once I have ruled the incident is open to be inquired into. I am

not going to shut off a question until that has been gone into thoroughly. What did you do?

A. I just left that part of the department.

Q. (By Mr. Cooper) Where did you go?

A. I went down to the ware sorters.

Q. As you went out, you called to others to go out with you, did you not?

Mr. Lamb: Objection.

The Master: I will overrule it.

A. (No response.)

Mr. Cooper: Answer the question. Will the Court so direct, if necessary? * * *

A. I don't remember exactly what I said to the employees. * * *

Q. Do you remember whether or not you told them to come out with you?

A. I may have.

Q. Now, what department was it that you first started work in?

A. I worked in the glost belt department all of the time excepting part of my job on the glost belt department took me to other departments.

Q. Now, you started in in February, 1940, is that right?

A. Yes.

Q. And was your job, then, in February, 1940, working on the glost belt?

A. My job in 1940 was bat grinder when I first started.

Q. When you first started you were a bat grinder?

A. That is right.

Q. What department is that in?

A. That was called the glost belt department. It was one of the jobs in connection with the glost belt.

Q. Just what does that job consist of?

A. The bats are things that are made for the cups to rest on in what we call the long deckers in the pottery. They are about a quarter of an inch thick or probably an inch—I mean between a half-inch thick; some are 12 inches

square or so, and others are about 8 inches wide and 18 to 20 inches long, and on these bats there is a top layer put in the sagger where the cups rest when they go through the glost kiln, and at intervals a mixture was put on these bats, and after the mixture had accumulated for quite a time it was my job at that time to grind it off so that more could be put on.

Q. How many others were working at that job in February, 1940?

A. I was the only one on that job.

Q. You were the only one on that job. Now, how long did you keep on that job?

A. For 3 or 4 months.

Q. For 3 or 4 months on that. And, that would be along about June of 1940; June or July of 1940 that you changed to another job?

A. Yes.

Q. And what did you do then?

A. I was transferred to the glost belt to work as a ware sorter.

Q. You worked as a what?

A. Ware-sorter, an emptier. It is one of the jobs called, one of the jobs classed in that.

Q. Now, in doing that work were you working right alongside of the moving glost belt?

A. Yes.

Q. And just what does the emptier do?

A. Well, when the sagger comes around, the saggers come around on the glost belt. There is one man that stacks the cups and takes the caster off, and then there are five men in a position where they empty the ware, and then further down there are men who sort the ware that come out of saggers. They sort it so that the girls down the chipping belt can load it easy, and there are four men on that, and I was down at the end sorting the ware.

Q. You were sorting the ware?

A. Yes.

Q. What were the names of the others who were sorting the ware with you?

Mr. Lamb: Objection.

The Master: I will overrule it.

A. I don't know the names exactly, but I can name them. All those jobs seem to be hand in hand, and I don't remember any definite names, but I can remember names of the boys on the belt.

Q. Can you remember the names of any of the boys who were working with you in this sorting job?

A. Joe Smith, Byron Hagen, Orville Zorn, Henry Pietrzak. That is all I can think of.

Q. Now, did you have another job after that?

A. I was transferred up to the other end to help the boys empty.

Q. When was that transfer?

A. I don't know. I wasn't very long on this job. Two or three weeks on the sorting job, and then I was moved up there.

Q. You were on the job for only two or three weeks?

A. That is right.

Q. Well, then, you were moved up with the emptiers?

A. That is right.

Q. That would be along sometime in the summer of 1940?

A. Yes.

Q. And how long did you stay at that job?

A. Well, I worked right up there on a job as an extra man on the entire belt, until the time I was discharged.

Q. You were working as an emptier?

A. As an emptier up till the time of the first strike.

Q. Up until April, 1941, and then after that you say you were sort of an extra relief man?

A. No. First of all I was put back on sorting for a few weeks.

Q. Yes.

A. And then I was moved off of that as an extra man, relief man, and everything else, on the entire belt.

Q. Now, when you were working as an emptier, how many other emptiers were working with you?

A. Four.

Q. Who were they?

A. Lloyd Trombly, Fritz Rheinhold, Bill Kepsel, Harry Lozon.

Q. Now, as I understand it, in this last period you more or less worked all around the glost belt department?

A. That is between the time of the first and second strike.

Q. Between the time of the first and second strike; prior to April, 1941, the people that you worked with were these 8 people that you have named?

A. That is right. There were more, too, but I can't remember them.

Q. Did you know an Earl Trombly?

A. Earl Trombly? Yes, I knew him.

Q. Did you work with him?

A. No, I didn't.

Q. Did you know a Floyd Pearl?

A. Yes, I knew him.

Q. Ever work with him?

A. He is in the unloading, which is—I did not work exactly with him. Probably for 15 minutes or so we were working alongside of each other.

Q. Did you know Norman Harms?

A. Yes.

Q. Did you work with him?

A. In the same relation that I worked with Floyd Pearl.

Q. Did you know George Houtoff?

A. George Houtoff? No, I didn't; I knew him, but I didn't work with him.

Q. Did you work in connection with any of the girls working along this glost belt?

A. No, I didn't.

Q. Your job most of the time was just either emptying ware or else acting as a sorter?

A. That is right. • • •

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Q. You were hired, I think you said, in February of 1940?

A. Yes, sir.

Q. And your first job was that of a bat-grinder?

A. That is right.

Q. You kept to that job until the late summer or early fall of 1940?

A. You see, I was on that job approximately four months.

Q. Can you remember what month it was that you shifted to another job?

A. Probably in June.

Q. You are quite sure that it wouldn't have been later than June?

A. No, sir, it couldn't have been any later than June.

Q. Then your next job was that of a ware sorter and emptier, is that right?

A. Yes, sir.

Q. And you continued in that job as long as you remained in the employ of the pottery?

A. That is right.

Q. Now, during this earlier period when you were a bat grinder, you didn't spend all of your time every day grinding bats, did you?

A. With the exception of probably four or five hours, I spent practically all of the first three and a half or four months grinding bats.

Q. You mean three or four hours a day?

A. No, three or four—about five hours in the entire time.

Q. You mean that every day with that one exception you would spend all of your time grinding bats?

A. Yes; for about the first three and a half months, I would say.

Q. A bat is a sort of a flat slab of some composition material on which cups were placed, was it not?

A. Yes, sir.

Q. And the grinding process was to remove an accumulation which built up on the top of the bat, is that right?

A. Yes, sir.

Q. And you had some kind of a power machine to do that?

A. Yes, sir.

Q. About how many bats would you grind a day?

A. I would say I averaged 450, 500 sometimes.

Q. There were always that many bats available.

A. Yes.

Q. On which grinding was required, was there?

A. Well, there were at least 400 every day. I would say I averaged 450 bats a day.

Q. Did you ever clean up all the bats on hand at the close of a day?

A. Well, probably after the first three and a half months, I did it. I think they started to use some different system on the bats.

Q. Sometimes you would get all the bats cleaned up at the end of the day?

A. Yes, sir, then I would have other work to do, clean up and such.

Q. In that case, when you came back the next morning would you ask Frank Jolly or Bill Stief what work you should start out on?

A. I always could find something to do on the bats; there was always work to do back there, clean up or else grind bats.

Q. Well, if you had the bats all ground at the end of the preceding day, and had it cleaned up, you would have to get some other job for the next morning, would you not?

A. I can't say that I ever remember of being that far ahead in my work.

Q. Isn't it a fact that a bat grinder is really a general utility man job and that you would work at one thing or another, according to what your foreman told you to do?

A. It wasn't at the time.

Q. Well, that is a job which is very often given to a fellow when he is hired in the glost belt department, isn't it?

A. Prior to the time I was there the bat grinding job was a utility man, but when I started I think the company just put me on there to grind bats all the time, and they generally had enough bats to keep me busy practically all the time for the first three and a half months.

Q. You say before you were hired the job of bat-grinding was a job of kind of a utility man?

A. Yes, from what other boys told me on the belt, it was.

Q. And then after you went on to another job, was it again a utility man job?

A. Shortly after, it was.

Q. You were about the only bat grinder who was ever there and spent all the time grinding bats?

A. Yes, that is right.

Q. As a matter of fact, they stopped grinding bats altogether, didn't they, used a new process which eliminated the necessity of grinding bats?

A. Yes, I believe they did.

Q. And you are quite sure that every morning during this period you would go right over to that room where you ground the bats?

A. Yes, sir.

Q. You are quite sure, are you, that you wouldn't have to ask one of your foremen what job you should start out on when you got down there in the morning?

A. That is right; I always had work to do back there, if that is what you are driving at, I always had bats to

grind for the first three and a half months, I would say, there was always work to do back there, if they were using a new system or wasn't, in those bats there was a tremendous amount we have had to grind, or I had to grind.

Q. If it wasn't grinding bats it would be something else for you to do?

A. For the first three and a half months I ground bats and for the last two or three weeks I was on that job they moved me on the belt.

Q. I say, if you didn't grind bats, as I understand you, there would be something else for you to do back there, is that right?

A. Just to clean up.

Q. And you are sure that during this first three or four months you spent all your time either grinding bats or cleaning up that bat grinding room, is that right?

A. That is right.

Q. Would you say that Frank Jolly never met you in the morning and told you what job to start out on that day?

A. I don't believe he did. I think there was one other job I did. That was just on one or two occasions, though. They have a big mud hole where they have, I don't know, some kind of mud or dirt, or water, that accumulates in the glaze room. It was a very heavy job, and they put me on that for a day. I was sick for about three days after. They took me off of my bat grinding job, and I don't know why they didn't put a heavier man in there. I had to push a wheelbarrow all day.

Mr. Cooper: I move the last part be stricken.

The Master: Read the question and answer back.

(Question and answer read.)

The Master: I will leave that in. That is unresponsive, I recognize, but the witness previously said he did bat grinding and also cleaned up, and did nothing else, and he now recalls he did another job, so I think he is entitled to correct his previous testimony.

Q. (By Mr. Cooper) Who told you to do that job, if you remember?

A. I think it was Bill Stief.

Q. Bill Stief did occasionally direct you to do some particular job or other that you should do?

A. I was the only one for the first three and a half months, and then after that the bats started coming in a little slower, and he told me wherever I had extra time to go over on the belt, and help other boys.

Q. Did Frank Jolly ever meet you in the morning, and tell you what job to start out on during this early period when you were a bat grinder?

A. I don't believe I had any connection with Frank Jolly at all during that period.

Q. Were there any other foremen or assistant foremen who put you on particular jobs other than bat grinding?

A. No, there weren't.

Q. During this period when you were a bat grinder, did you come in Monday mornings and load up the glost belt?

A. Let me see, I think during that period, I believe I came in at my regular time, on my bat grinding job.

Q. It was after you were transferred over to the glost belt that you would come in with some of the other glost boys on Monday to help get the belt lined up, is that right?

A. After—I guess it was about three and a half months—Bill Stief told me to come in Monday mornings before I punched my card, and help unload a few of the cars I was supposed to work.

Q. That was about the time you were moved over on to the glost department job?

A. Just prior to that time.

Q. When you were in the glost department you would come in earlier on Monday mornings to help load the belt?

A. We were all instructed to come in, I guess it was half past before they punched their cards, and unload I guess it is two and a half cars, and then we would go out again.

Q. As a matter of fact, you used to punch the time clock earlier Monday mornings than on other mornings, didn't you?

A. Let me see, we would come in at halfpast six, unload a few of the cars, and then we would have to go out and wait until 14 minutes to, and the girls would go through and punch their cards, and we would come in right behind them. We worked the same number of hours, I believe, Monday, than the other days, but we would come earlier.

The Master: Did you come earlier than on the other days?

A. Yes.

The Master: Did you punch the clock earlier?

A. I don't believe we did.

Q. (By Mr. Cooper) You are quite sure you didn't?

A. I am quite sure.

Q. You are quite sure on Monday during the time you were on the glost department, you would punch in the time clock the regular time?

A. Yes, sir.

Q. That was between 14 minutes to 7 and 7 o'clock?

A. Yes, sir.

Q. The same time as the girls in the glost belt department did it?

A. We used to punch in right after the girls.

Q. They would all be punched in before you would, is that right?

A. Yes, sir.

Q. During this period when you were emptier and ware sorter—let me ask you, emptying consists of picking the dishes out of saggers on the belt, does it not?

A. Yes, sir.

Q. At that stage, the saggers, which, by the way, are earthenware containers on which the dishes are contained while they are in the kilns, is that right?

A. Yes, sir.

Q. And after they came through the kiln, the saggers would be placed on the glost belt, is that right?

A. That is right.

Q. And the job of emptying was removing the dishes from the saggers, is that right?

A. Yes, sir.

Q. And was the job of sorting them, the placing of these dishes, after you take them out of the saggers, in various boxes?

A. Yes, sir.

Q. Were those boxes on the glost belt, too?

A. Yes, sir, they ran from the glost belt to the chipping belt.

Q. Then after the ware was sorted, you would go over to the chipping belt, is that right?

A. That is right, sir.

Q. Now, were there some days during this latter period, that you would be doing both emptying and sorting?

A. All the time I was at the plant—I was moved around quite a bit; I was never on one job.

Q. In fact, you worked as sort of an extra man all over the glost belt, didn't you?

A. Yes, sir, most of the time.

Q. Would you say all of the time you were there?

A. Oh, there would be times probably for a month, or two or three weeks, or something like that, that they might keep me on one job steady. I was extra man first of all on the emptiers, and then after a while I was extra man on the whole belt.

Q. In fact, you were kind of an extra man all the time you were working at the pottery, were you not?

A. That is right. That is what you could call it, I guess.

Q. Different days you would do different jobs?

A. That is right.

Q. Going back again to the latter period, did you start out at the same place every morning, or did you start out different places different mornings? I mean, different places along the glost belt?

A. Well, when I was extra man over on the emptiers'

end, I always started off at the same position every morning.

Q. How about the other times?

A. I would just start out anywhere where they needed a man.

Q. How would you know where they needed a man?

A. Oh, my boss just generally left it up to me, I guess. He would never tell me, "You go there and work," or "You go there and work." As long as the belt was operating smoothly that is what my responsibility was most of the time.

Q. If the belt was operating smoothly and no extra man was needed, you would simply stand by, would you?

A. No, sir, I helped the emptiers. The more men we had up on the emptying end, the better control we had over the ware and the less chips we would have.

Q. Then is it your statement that when you arrived at the plant, you would look about and see whether somebody was missing on the belt, so that you would have to fill in?

A. That is right, sir.

Q. That would be the first thing you would do?

A. That is what my job consisted of the last two or three months I was there.

Q. And if everything was running smoothly, you would usually start in helping the emptiers, is that right?

A. That is right.

Q. Before that last two or three months, you were always working more or less as an extra man, were you not?

A. I was working on cups and sorting cups out and I was emptying.

Q. You would frequently do some sorting and some emptying on the same day, would you not?

A. Not very often, though, not before that last probably 3 months.

Q. Were there other jobs that you would fill in on in addition to emptying and sorting?

A. No, sir, I stayed in the glost belt all the time.

Q. Are there any other jobs on the glost belt besides emptying and sorting?

A. Probably on one or two occasions I put bats in saggers on my day off, but that is all.

Q. How would you know whether to start emptying or sorting on particular days?

A. Well, I had been working there long enough to know just exactly what to do; if everything was going smoothly on the emptying end, I mean on the sorting, I would help the emptiers, and the more men you had up at the emptying end, the more the sorters would do.

Q. Even before the period of the last two or three months you used a certain amount of judgment to decide whether you would be emptying or sorting on a particular day, is that right?

A. What do you mean, prior to the last 3 months?

Q. Yes.

A. Well, I was either emptying or prior to that time I was generally put in one position until I was moved off by Bill Stief.

Q. I understood you to say a moment ago that to decide whether you would start out emptying, or start out sorting, you would see where a man was needed?

A. That was the last 3 months, sir.

Q. You say now before the last 3 months that situation wasn't true?

A. That is right, sir.

Q. During the period after you ceased to be a bat grinder, and before this last 2 or 3 months, then you always had a particular job to start out on, on a particular morning, is that right?

A. That is right.

Q. And it might be either sorting or emptying, is that right?

A. That is right; I had a steady position during that time most of the time.

Q. I say, it might be either sorting or emptying on a particular day?

A. Yes, sir, it might have been either.

Q. Would it necessarily be the same thing that you had been doing the afternoon before?

A. It very often was.

Q. But sometimes it was not, is that right?

A. That is right, sir.

Q. It would depend on what the foreman told you to do the particular morning?

A. Yes, sir. * * *

Q. (By Mr. Cooper) How far would you say it was from the time clock where you punched in, to the room where you did your bat grinding?

A. Probably six or seven hundred feet.

Q. You don't think it was any further than that?

A. It could have been, possibly.

Q. What would be your outside estimate, in distances?

A. My highest?

Q. Your highest.

A. I wouldn't say it was any more than 750 feet.

Q. You are quite sure it wasn't more than 750 feet?

A. Yes, sir.

Q. You think it might have been less than that?

A. It could have been considerably less.

Q. Well, between what ranges would your estimate vary?

A. I would say my best estimate of it would be between six and seven hundred feet.

Q. Between six and seven hundred feet. And, then, as to the point you indicated on the Exhibit 30-A where you did the glost unloading, how far would you say that was from the time clock?

A. Oh, probably 200 feet or 300 feet.

Q. You think that would be probably two or three hundred feet?

A. Wait a minute. I think it would be 200 feet.

Q. You think only about 200 feet—

A. Yes, sir.

Q. —on giving further reflection. Now, there were other jobs along the glost belt in addition to that of unloading and sorting ware, were there not?

A. Yes, sir.

Q. For example, there were some boys who would load the saggers and put them on the belt and push them in to the girls, is that right?

A. Yes, sir, the sagger pushers.

Q. And there were other jobs, too?

A. Yes, sir. Several other.

Q. What were they?

A. There were the waterers, unloaders, and emptiers, boys who put bats in the saggers, the men who put the fluid on the bats that had to be ground off every time they came out of the kilns.

Q. Did you work on all those different jobs?

A. I just worked at bat grinding and putting the bats in saggers, and emptying, and sorting out the ware.

Q. There weren't any other extra jobs you filled in on?

A. Excepting an odd job that came along probably on a Saturday morning—or—but, that would be hard to recollect right now.

Q. Was the general procedure that some boys would load the saggers on to the belt, and that the saggers would be pushed in to the girls, and the girls would place ware in the saggers, and then after going through the kilns, the saggers would come back on the belt for unloading?

A. Yes, sir.

Q. Is that right?

A. That is right.

Q. And the sagger loaders or sagger pushers, would be working on the same belt as you were working on, is that right?

A. Yes, sir.

Q. It was all one belt?

A. All the glost belt. Then there were several belts that made up the glost belt.

Q. But it was one continuous moving belt?

A. That is right.

Q. So far as its actual operation was concerned?

A. Yes, sir.

Q. And when it started out in the morning, operations would start up at the same time all along the belt, would they not?

A. Oh, on every morning except Monday mornings.

Q. On every morning except Mondays. Was that because on Friday night the glost belt had been all cleaned off?

A. That is right, sir.

Q. Now, operations couldn't start with only a few people along the belt, could they?

A. Well, on Monday mornings, we always started up at—I guess practically every one was there excepting the girls. All men.

Q. And on other mornings they would all be there, including the girls?

A. The girls would go in first, and the men would go in right after them.

Q. I say, on mornings other than Mondays, all the girls would go in about the same time, is that right?

A. Yes, sir.

Q. In fact, to operate the belt, most of them had to be there, is that right?

A. That is right.

Q. If only half of them were there, you probably couldn't operate, could you?

A. Well, I guess you could operate it all right.

Q. It wouldn't work very well?

A. No, sir, not very well.

Q. Now, during the day you would sometimes relieve a boy who wanted to leave the department, would you not?

A. Yes, sir.

Q. Would that only be on instruction of a foreman, or would other boys on the belt ask you to relieve them?

A. In the last 3 months, that was one of my jobs. One of my jobs was to relieve the boys once or twice a day to go to the rest room.

Q. If the boy asked you to relieve him and you had time, you would do it, is that right?

A. Yes, sir.

Q. But is it also right you would sometimes tell him you were too busy, and besides he had been relieved only a few minutes before, is that right?

A. Yes, sir.

Q. Some of the boys would like to take relief periods as often as they could, is that right?

Mr. Lamb: Objection to that question.

The Master: I will take his answer.

A. I don't know about that. I never had very much trouble with them. Probably once or twice a day is all the more I ever relieved them.

Q. But, as you said, there would be times when you would protest to a boy that you had given him some relief just a few minutes before and you were too busy to let him go away again, is that right?

A. Oh, there would always be monkey business like that around. It is like that everywhere.

Q. At least it was true at the pottery?

A. Yes, sir.

Q. By the way, was it every Monday that you came in to help load the belt, or was it every other Monday?

A. Every Monday.

Q. You are quite sure of that?

A. Yes. After the first three and a half months, I would say.

Q. You are quite sure that the situation was not that you would come in early one Monday and not the next, is that right?

A. No, sir, we never did it that way.

Q. Showing you Exhibit 63-R, being your time clock card for the pay period ending October 15, 1940, can you say what time you punched in the first Monday on that time clock card?

A. 6:31.

Q. And what time did you punch in on other Mondays on that time clock card?

A. 6:31.

Q. Was there any other day that you punched in between 6:30 and a quarter to 7 on that time clock card?

A. No, sir.

Q. Showing you Exhibit 63-S, your time clock card for the period ending October 29, 1940. Does it also appear that you punched in early on both Monday mornings?

A. Yes, sir.

Q. That was at 6:32 and 6:31 respectively?

A. That is right.

Q. Was there any other day during that period that you punched in prior to 6:46?

A. No, sir.

Q. Is the same thing true on Exhibit 63-T, your time clock card for November 12, 1940?

A. That is right.

Q. Is the same thing true on Exhibit 63-U, your time clock card for November 26, 1940?

A. Yes, sir.

Q. Is the same thing true for Exhibit 63-V, your time clock card for December 10, 1940?

A. Yes, sir.

Q. And also Exhibit 63-W, your time clock card for December 24, 1940?

A. That is right.

Q. And also the next one, Exhibit 63-X?

A. That is right. Let's see some of these cards prior to this time.

Q. You still say, do you, that you always went in Monday mornings and loaded the glost belt and punched in after that?

A. On our own time, yes, sir. Prior to the first strike, as far as my recollection goes, we did that.

Q. You say now that it was prior to the first strike that you would come in Monday morning and load the belt, before you punched the time clock?

A. Yes, sir.

Q. When was the date of that first strike?

A. It was some time in April.

Q. What year?

A. 1942-1941.

Q. If I suggested to you the date April 14, 1941, would that refresh your recollection?

A. I think that was about the time.

Q. And there was a strike by the CIO at that time?

A. Yes, sir.

Q. Did you go out on strike then?

A. Yes, sir.

Q. And did you go out on strike, by the way, at any later time?

A. Pardon?

Q. Did you go out on strike at any later time?

A. Let's see, I believe I was fired prior to the second strike, so I don't believe that would be called going out on strike, so I don't believe I did.

Q. There was one other CIO strike at the pottery?

A. Yes, sir.

Q. And did that start on a Monday morning about the 14th of November?

A. Yes, sir, that is the day it started.

The Master: 1941?

Mr. Cooper: 1941.

Q. (By Mr. Cooper) And that was the last strike?

A. Yes, sir.

Q. Now, you say that prior to the first strike on April 14, 1941, you came in every Monday morning and loaded the sagger belt before you punched in the time clock, is that right?

A. Yes, sir; I don't remember of that ever being discontinued there.

Q. I beg your pardon?

A. I don't believe that was ever discontinued there prior to the first strike.

Q. And you also say on these Monday mornings you would punch in at the same time as the girls working in the glost department, is that right?

A. Yes, sir.

Q. Of course, as a matter of fact, these various cards I showed you were all before the first strike, were they not, Mr. Dacko?

A. Yes, sir.

Q. And then all those cards you punched in between 6:30 and a quarter to seven on the Monday morning?

A. I punched in 6:30 and 6:31 and 6:32 on all of them on Monday morning.

Q. Do you know what time the girls in the glost belt punched in those Monday mornings?

A. They should have punched in about the same time.

Q. If the exhibits here show that on those Monday mornings the girls in the glost department punched in between 14 to 7 and 7 o'clock, would you change your mind as to whether you loaded the saggers before punching in?

A. I can't change my mind. I know doggone right well we loaded those saggers on our own time for nothing, for straight one rate, before we punched our cards. It may have been discontinued, but that was my boss' instructions for about three and a half months after I was there, to get in in the morning and help the fellows unload one or two cars, or whatever we needed in the glost department.

Q. What time did the glost belt department generally start?

A. Quarter to 7.

Mr. Lamb: Incidentally, who was the boss?

The Master: I was going to ask that. Who was the boss?

A. Willard Stief.

Q. (By Mr. Cooper) Would it start that time Monday mornings, too?

A. Well, it probably didn't. My time card shows that.

Q. The time card doesn't show anything about that, does it? It shows when you punched the time clock.

A. It shows I started earlier on a Monday morning.

The Master: What about the rest of the department? When did they start on Monday?

A. I think they started at the same time we did.

Q. (By Mr. Cooper) As a matter of fact, you know, don't you, that the girls punched in later on those Mondays?

A. Let me see, those time cards you showed me, were they for October, 1941 or October, 1940?

Q. October, 1940.

A. I think the girls may have punched in later Monday, but then, again, I feel almost certain they punched in before we did.

Q. You are practically certain the girls in the glost belt on all these Mondays punched in between 6:15 and 6:30, is that right?

A. They would have punched in between 6:30 and a quarter to 7.

Q. You mean, now, they punched in at the same time as you did on Monday?

A. That is right. I wouldn't put a quarter hour difference between us.

The Master: When you said you punched in later than the girls, how much later did you have in mind?

A. It could be anywhere between 5 or 10 seconds to 1 or 2 minutes.

The Master: You meant the girls lined up and punched in, and then you lined up and punched in right after them?

A. That is right, sir.

Q. (By Mr. Cooper) Still you were able to punch in at 6:31 or 6:32 a lot of Monday mornings, is that right?

A. Yes, sir.

Q. Now, there is no doubt in your mind, is there, witness, as to what time the glost belt department started to operate?

A. Generally it started operating at a quarter to 7.

Q. There is no doubt in your mind about that, is there?

A. No, sir.

Q. Is there any doubt in your mind as to when the

department started operating on these Monday mornings?

A. No, sir.

Q. You are positive that everybody got in, and operation started during the 14-minute interval between 6:30 and a quarter to 7, is that right?

A. It started operating about that time; yes, sir.

The Master: It would be a 15-minute interval. It is not very important, but you said 6:30 to a quarter to 7:00.

Mr. Cooper: 6:31 to a quarter to 7:00.

Q. (By Mr. Cooper) Well, you are sure that the girls and the other employees in the glost belt department did not punch in in the period from 14 minutes to 7:00 until 7 o'clock on these Monday mornings, is that right?

A. Yes, sir.

Q. (By Mr. Cooper) There was a certain time, was there not, when your hours of work as computed by the company started?

A. That is right, sir.

Q. And it is your claim, is it, that you usually rang in the time clock prior to that, is that right?

A. Yes, sir.

Q. Now, do you have any idea on the average how many minutes prior to that you would ring in the time clock?

A. About 12 minutes prior to the time that my time started.

Q. (By Mr. Cooper) Are you reasonably sure it would be as much as that?

A. Yes, sir.

Q. You would be quite sure that it would be more than 10 minutes, would you?

A. Yes, sir.

Q. (By Mr. Cooper) Now, there was also a quitting time, generally established quitting time, for your department, was there not?

A. Yes, I believe there was.

Q. Would you generally ring out at the time clock some time subsequent to that?

A. Well, according to the company's computation our

quitting time was four o'clock and we would have to ring out any time between four and quarter after.

Q. On the average, how long after four o'clock would you ring out?

A. Oh, it varied a great deal, probably sometimes 5, 6, 10 minutes, probably sometimes 14 or 15.

Q. Have you any idea at all what the average was?

A. I would say around 10 minutes.

Q. Do you think it might have been considerably less than that?

A. No; I don't think so.

Q. You are quite sure, for example, that it would be more than 6 minutes?

A. Yes, I am certain of that.

Q. Now, as a matter of fact, you sometimes punched in right on the quarter-hour you were given credit for having started, did you not? * * *

A. I don't think I remember of more than twice where I punched in on the quarter-hour, and then I was told to refrain from doing so. * * *

Q. (By Mr. Cooper) With whom did you have such a conversation?

A. Mr. Stief.

Q. And you had such a conversation with him at every instance when you punched in on the even quarter-hour?

A. I believe it was just once, and he simply told me that I should punch out after the quarter-hour and—when I start, and prior to the quarter-hour when I quit.

Q. Do you recall only one such conversation with him?

A. That is for the morning, and I think he told me—

Q. Do you recall only one conversation with him?

The Master: Just answer the question directly; do you recall more than one conversation with Mr. Stief on that subject?

A. No, I believe there was another one.

The Master: With respect to your punching in in the morning at the quarter-hour?

A. Punching out, it was.

The Master: The other one was with respect to punching out?

A. Yes, sir.

The Master: Was the first one when you punched in the quarter-hour?

A. Yes, he noticed that on my card and he told me that I should punch in after the quarter-hour in the morning and before the quarter-hour at night.

The Master: Just to get this clear, you stated that there were two occasions that you recalled when you punched in on the even quarter-hour in the morning and got paid from that time, as I understand it?

A. That is right.

The Master: And, one of those occasions Mr. Stief noticed it on your card and called your attention to the fact that you should punch in after the quarter-hour?

A. That is right.

The Master: Now, in the afternoon when you punched out were there some occasions when you punched out on the even quarter-hour?

A. Yes. And probably a minute or two after.

The Master: And were there many of those occasions, or was that limited to one or two?

A. That was limited to one or two.

The Master: Just one or two occasions when you punched out at 4 o'clock, or one minute or two minutes after four o'clock?

A. It was a quarter after, that I can remember.

The Master: Quarter after?

A. That was while I was on an hourly rate.

The Master: In other words, in the afternoon the instances you refer to you punched out at a quarter after instead of punching out at 4:14, say, so that you got paid right up to a quarter after four, is that right?

A. Yes. Or else I punched out right at 4 o'clock and they figured I should have worked an extra 10 or 11 minutes.

The Master: And how many instances were there of

that sort where you punched out at 4 o'clock even, or 4:15 even, that you can recall?

A. I don't think there were so very many.

The Master: And you state Mr. Stief, spoke to you about that on one of those occasions?

A. That is right.

The Master: What did he say?

A. He said to be out at about a quarter after, but not a quarter after the hour. He said see that you be out at a quarter after, and then he said something about not getting out at four o'clock, too.

The Master: Go ahead.

Q. (By Mr. Cooper) You are speaking now of days when you punched out exactly at 4 o'clock, is that right?

A. Yes, sir, that was while I was on hourly rate.

Q. You certainly punched it within two or three minutes after the even quarter hour, did you not? * * *

A. I punched out, but I would not say frequently at that time.

Mr. Cooper: What was that?

The Master: He said, he punched out, but he wouldn't say frequently at one or two minutes after. * * *

The Master: Were you one of the early arrivers in your department, one of the first in line to punch the clock?

A. No, sir.

Q. (By Mr. Cooper) Will you say you were among the last in the glost department to arrive?

A. Oh, I would be there, but I would sit around until every one else had punched in, and then I would punch in. I would never rush myself through the time clock.

The Master: In other words, you were often there early, but as far as punching in you were usually among the last to punch in?

A. Yes, sir. We would have to wait until all the girls got through, and then the unloaders, and then the emptiers would come through.

Q. (By Mr. Cooper) You didn't make any particular effort to punch in at 14 to?

A. No, sir.

Q. And were you one of the first to ring out at noon?

A. Well, I guess we were the only—the whole department was nearest the time clock, so that we were right up at the clock at noon.

Q. Would you frequently manage to ring the clock right at 12 noon or a minute or two after?

A. I think they kept us working until five minutes after, anyway. If those occasions were there, I don't think they were very frequent.

Q. You feel, then, it was almost always five minutes after 12 or later that you would ring out for lunch, is that right?

A. Yes, sir.

Q. As a matter of fact, within 3 to 5 minutes you were usually out there at the clock, were you not?

A. I don't think I was.

The Master: This is at noon, now.

A. Yes, sir.

Mr. Cooper: At noon.

Q. (By Mr. Cooper) You are not so certain now whether you were or not, is that right?

A. As far as my recollection goes, and as far as the majority of the time is concerned, I am certain that we worked until after five minutes past 12 o'clock.

Q. You are sure, for instance, that there wouldn't be any clock cards where you punched out before 12:05—

The Master (Interposing) Well, that is different.

Q. (Continuing)—every day?

A. It might be possible for one 2-week period.

Q. (By Mr. Cooper) What would be your idea as to the average amount of time, and by that I mean the average number of minutes after 12 that you would punch out for lunch?

Mr. Lamb: He has already answered that: he said more than the majority was after five minutes past 12.

The Court: He hasn't given an average; he has stated it was usually after five minutes past 12. Can you state about what the average was?

A. I would say about five minutes.

Q. (By Mr. Cooper) You think it would be about five minutes on the average by the time you would get actually punched out?

A. Pardon?

Q. Do you think it would be about five minutes after 12 on the average that you would actually punch out?

A. That is right.

Q. And you must have stopped work before that?

Mr. Lamb: Objection.

The Master: There is that argument we have been over before as to what "work" means. The question is as to whether you stopped production work before that time.

A. The belt shut down, we went directly to the time clock, we never wasted any time at noon.

The Master: So the only intervening time would be the time it would take you to walk to the time clock?

A. Yes, sir.

Q. (By Mr. Cooper) Would you say if a fellow punched the time clock at exactly 12 he must have left the belt before the belt stopped?

A. Oh, I don't know about that. It didn't take us very long to get to those time clocks once that belt was shut down.

Q. You mean that if the belt stopped at 12 noon an employee in the glost belt department could have stopped production work, taken off his apron, walked over to the time clock and punched out at exactly noon?

A. Let's see, I don't think we had any aprons to take off, as we have them off by the time the production lines had ceased.

Q. You would take off your aprons before production stopped?

A. All we had to do was pull a rope and it would come off, and then I don't ever remember of walking to the time clock at noontime. I don't know if there was anyone there that did it.

Q. How did you get to the time clock at noontime?

A. We ran.

Q. Well, there was some interval at least between the time the production work stopped and the time you rang out at the time clock?

A. Yes, I would say there was some interval.

(Discussion off the record as to working schedule.)

Mr. Nunneley: We had Mr. Anderson subpoenaed to come with relation to some records. We, perhaps, could get through with him.

The Master: All right. Excuse Mr. Dacko and have Mr. Anderson take the stand.

(The witness was excused temporarily.)

STEPHEN ANDERSON, was thereupon recalled as a witness herein, and having been previously duly sworn, testified as follows:

Mr. Cooper: I would like to state on the record, if the Court please, that in this case, again, Steve Anderson was subpoenaed by the defendants as an adverse witness for further cross-examination, and that we are calling him as an adverse witness for the purpose of continuing the cross-examination.

Mr. Anderson, were you served with a subpoena—

Mr. Lamb (Interposing) Just a moment until I state my objection. As I understand it, they have subpoenaed a witness which they have formerly cross-examined and excused, and are now subpoenaing him. In that event I simply want the record to show it is improper cross-examination.

The Master: Well, I would like to get this question of the constitution and by-laws straightened out, so for that purpose I will ask Mr. Anderson myself about the constitution and by-laws of the union.

Do you have those in your possession or do you know where they are?

A. Well, I am no longer connected with the Local 1083.

The Master: You aren't?

A. No, I got transferred to Hudson Motor Car.

Mr. Lamb: You work at the Hudson Motor Car Company now?

A. Yes, sir.

The Master: You are now working at the Hudson Motor Car Company and you have been transferred to the Hudson Local of the CIO?

A. Yes.

The Master: That is the United Automobile Workers?

A. Yes, sir; UAW.

The Master: Where were the constitution and by-laws at the time you left this Local in Mt. Clemens?

A. I think—I believe Mr. Sandler had them.

Mr. Nunneley: Who?

A. Mr. Sandler.

Mr. Lamb: Mr. Sandler of the National Labor Relations Board? * * *

A. Yes, sir.

The Master: Do you know who is president of the local now?

A. I think Mr. Pearl automatically took over as president. He was vice-president. He automatically takes the president's place when the president isn't there. * * *

The Master: Do you know whether there was a constitution adopted by this organization?

A. Yes, we were just in a—well, forming the Union, you know, organization, and we have to adopt a constitution and we take the oath, every member, the whole body.

The Master: Do you know whether you had by-laws in addition to the constitution?

A. Well, we were just making our by-laws.

The Master: You don't know whether those ever were adopted?

A. No, they weren't all completed.

The Master: And who was the custodian of the con-

stitution and by-laws, so far as the by-laws were prepared?

A. Well, of course, the secretary, that was Miss Freddle; Eva Freddle; whether she has them now, I don't know.

Mr. Nunneley: I think, if the Court please, these folks can find these things if they want to find them. For some reason or other they don't want to find them.

The Master: I think I will ask the plaintiff here, the plaintiff Union, in particular, the other plaintiffs are not involved, to produce its constitution and by-laws, if any, and the minutes of the meetings, if it is possible—

Mr. Nunneley: (Interposing) Up to the time of this suit.

The Master: (Continuing) —and if they can't be obtained, I would like to know the circumstances under which it is impossible to find them.

Mr. Lamb: Well, I will tell you what I will do, what I will do, and nothing else, but I don't think in the absence of a subpoena you can ask counsel to go looking for some records that as I understand it are before another governmental agency.

I heard a statement this morning for the first time that some minutes of some meetings were submitted to the Labor Board. I hadn't heard about that before. I didn't participate in the Labor Board hearings, so I am not in any position to tell you about them. I will make the request of Mr. Anderson, who lives in Mt. Clemens, to see the people to see if we can dig up the constitution and by-laws.

Mr. Nunneley: Will you obey the court's order?

Mr. Lamb: I don't have to obey any order, and the Court doesn't have any authority to make such an order, and there hasn't been any order. If somebody wants to subpoena me in this case, go ahead and do it. I will be glad to see the subpoena.

Mr. Cooper: If I understand your Honor correctly, the

Court has ordered the plaintiffs to produce the constitution, by-laws, and any portion of the minutes which may relate to the institution of this action, to produce them in court here. Do I correctly understand you?

Mr. Lamb: He said he would rule on the matter when it came up. I will make an effort to get them.

The Master: I am asking that they be produced, yes.

Mr. Cooper: That is, production of the records and by-laws, and your Honor will rule on the question of materiality after they are here.

The Master: Of course, the minutes you request are those that relate to the authorization of this suit, and if they bring in those minutes, that will be sufficient.

Mr. Lamb: If there are any. If there are any, I will tell you so. I don't have any knowledge about it.

The Master: Bring in the minutes and the constitution, and if there are any by-laws, bring them in.

Mr. Lamb: I will make inquiry about it.

The Master: All right, I will ask that those be produced.

Mr. Lamb: All right. • • •

The Master: I will excuse Mr. Anderson, and I will ask that those documents be produced as promptly as can be done.

(Witness excused.)

NICHOLAS DACKO, was thereupon recalled as a witness, being previously duly sworn, testified further as follows:

Cross Examination (Continued)

By Mr. Cooper:

Q. I show you Exhibits 63, 63-A, 63-B, 63-C and 63-D, and I ask ~~you~~ witness, to look over those exhibits in the column headed, "Noon out," and ask you whether you find a number of instances where you punched out at 12:01, 12:02 or 12:03?

A. Yes, sir, there are several of them.

Q. And that covers a period of 10 weeks, does it not?

A. It covers a period when I first started, prior to the time I went down in the glost belt department.

Q. Of how many weeks?

A. 10 weeks.

Q. There are, in fact, very few occasions when you punched out as late as 5 minutes after the hour, is that right?

A. On these cards there are very few.

Q. Now, did you understand, Mr. Dacko, the method under which the company computed the number of hours that you were credited with having worked?

A. Yes, sir.

Q. I appreciate this is a bit repetitious, but the direct part of this examination is some time back. Do the figures in the right-hand column on your time clock cards represent the number of hours you worked, according to the company's computation? • • •

A. Yes, sir.

Q. (By Mr. Cooper) And you knew the method under which they were computed, did you?

A. Yes, sir.

Q. You saw it every day, as a matter of fact, did you not? When you would pick up a time clock card, it would have the number of hours figured in for every day up to the present day, is that right?

A. That is right. • • •

A. I knew there was a wage and hour law, but I never knew the details of it.

Q. (By Mr. Cooper) Did you ever make any objection to your foreman about the way the company computed the hours worked. • • •

A. My only objection made, of course, was the time I was fired for shutting off the production lines at the regular quitting time one night. • • •

Q. Going back to this occasion you referred to when you turned off the emergency switch at four o'clock, that was on a Friday in about the middle of November, 1941, was it not?

A. That is right.

Q. I think the date was Friday, November 21, 1941?

A. Yes, sir.

Q. And you turned off the switch at 4 o'clock, did you not?

A. That is right.

Q. You did that because you believed you should have overtime after you worked 8 hours in a single day, didn't you?

Mr. Lamb: Objection.

The Master: Overruled. • • •

A. Do I have to answer it yes or no, or may I state my reason for not wanting to work over 8 hours? • • •

The Master: First, I will find out whether he can answer it yes or no. Can't you state whether or not that was the reason you pulled the switch, because you believed under the Wage and Hour Act, you should be given time

and a half if you worked more than eight hours in a single day?

A. Well, the reason I pulled that switch was because I knew from what I gathered that day from my foreman and from my assistant foreman was that we were going to work over eight hours but under eight and a quarter hours, so we would just be going back to the old way we worked before the first strike, but we would have to come in probably—I thought if they got away with that, they would want us to come in in the morning; I thought I would work probably 8 hours and 10 minutes, and we wouldn't get credit for the ten minutes.

The Master: Then, in other words, it was not because of a belief that if you worked over 8 hours in a single day you were entitled to time and a half pay, but it was for another reason, as you stated, that you pulled the switch.

A. That is right, we shouldn't work over 40 hours in one week.

Q. Now, how many hours did you work that week up to that time?

A. I believe it was 24. I am not sure. * * *

Q. You were a witness in certain proceedings had before the National Labor Relations Board last March, were you not?

A. That is right.

Q. Did you testify in those proceedings as to your activity in turning off this emergency switch on November 21, 1941?

A. Yes, I did.

Q. And did you state that you believed you should be paid overtime for anything over 8 hours in a day?

A. I don't recall stating that. * * *

Q. Do you recall whether you were asked the following question: "Did you discuss with these employees why you didn't want to work after 4 o'clock that day?"

A. I believe I recall that question or a question similar to it.

Q. And do you recall your answer was "Yes, I did"?

A. I think the answer was "Yes."

Q. Do you recall being asked—

The Master: I think if you will give him the question and answer together in each case, it will be easier for him.

Mr. Cooper: Thank you, your Honor.

Q. (By Mr. Cooper) Do you recall being asked, "What was the discussion," and answering, "We were talking generally about the reason for the company wanting us to work after 4 o'clock and about getting overtime pay for it. We felt and I think that the other fellows stated that they felt, too, that they should get time and a half." Do you recall that question and answer?

A. I believe I do. • • •

Q. Do you know whether there was a girl by the name of Rita Schulte working at the Mt. Clemens Pottery Company?

A. Yes, there was. • • •

Q. Do you know what department she worked in?

A. I believe she worked in the glost belt. • • •

The Master: Do you know whether she came in with the rest of the girls in the morning?

A. She must have. All the girls came in together.

Q. (By Mr. Cooper:) Then, witness, looking at Exhibit 5-II, being the clock card of Rita Schulte for the pay ending November 12, 1940, would you say that the girls in the glost belt didn't come in at 6:31 on either of the Monday mornings reflected there?

A. No, they didn't. • • •

Q. (By Mr. Cooper) Now, on Exhibit 63-T, your clock card for the same period, you punched in at 6:31 each of those mornings, did you not?

A. Yes.

Q. And the girls on the glost belt punched in after 6:46?

A. Rita Schulte did. • • •

Q. (By Mr. Cooper) Now, the next time card was

November 26th. On both Mondays on that time clock card you punch in at 6:31, did you not?

A. Yes, sir.

Q. And Miss Schulte punched in at 6:46, did she not?

A. That is right.

Q. Exhibit 63-V, your clock card for December 10, 1940, and Exhibit 5-KK, Rita Schulte's clock card for the same period, there again on both Mondays you punched in at 6:31, did you not?

A. Yes.

Q. And Rita Schulte punched in at 6:47 each Monday?

A. Yes.

Q. Now, you don't think it likely, do you, that Rita Schulte just happened to be later than the other girls on those particular mornings?

A. No, I don't.

Q. (By Mr. Cooper) You think, — in fact you know, don't you, that the girls all came in together?

A. Yes.

Q. In other words, on any of those Monday mornings the girls punched in about 15 minutes after you did?

A. That is right.

Q. (By Mr. Cooper) I asked you whether the same thing wasn't true on the two Mondays for the pay period ending December 24, 1940?

A. It is true.

Q. And isn't the same thing true for the period ending December 31, 1940?

The Master: For the record the card of Rita Schulte for December 31, 1940, is Exhibit 5-MM, and of Nicholas Dacko, 63-X. And, there is one Monday shown on that card, and the question was as to whether the condition was the same on that Monday. I don't think he answered. He may have answered, but I don't think so.

A. I answered. I said yes.

Q. (By Mr. Cooper) May I repeat the question? Showing you Exhibits 5-F and 63-Z, I believe.

The Master: Z, yes. Will you give the date?

Q. Being the clock cards for the pay ending January 25, 1941, and ask you whether the same thing is true during those two weeks?

A. It is.

Q. (By Mr. Cooper) During these months subsequent to October of 1940, you were working on the belt, were you not?

A. Yes, I was.

Q. During what period were you working on the belt?

A. I was working on the glost belt ever since about June.

Q. Of what year?

A. 1940.

The Master: That was from June, 1940, until the time you were fired?

A. That is right.

Q. Showing you now, witness, Exhibit 63-R, your clock card for the period ending October 15, 1940, what time did you punch in, on the top line shown on that time clock card?

A. 6:49.

Q. What day of the week was that?

A. I believe it was Friday.

Q. (Indicating) I am indicating to the witness that the letter "W" is stamped opposite.

A. Wednesday.

Q. You would say it was a Wednesday?

A. Yes.

Q. What department were you working in that morning?

A. It is kind of hard to answer. I simply can't remember what department or where I was working; it was probably on the glost belt.

Q. Probably on the glost belt. You wouldn't remember what job you were doing that morning?

A. No, I wouldn't.

Q. Do you remember whether there was a lineup at the clock when you got into the plant that morning?

A. No, I don't.

Q. And going back, how many feet did you say it was from the time clock you punched to the glost belt?

A. About 200.

Q. Of course the belt was quite a long belt, was it not?

A. Yes, sir.

Q. About 300 feet long?

A. Probably more than that.

Q. More than that. And the distance that you would have to walk then would depend, of course, on the particular part of the belt you were working on that morning?

A. That is right.

Q. Do you remember whether you saw any of your friends that morning as you walked into your department?

A. I don't know how I could remember anything that happened any specific day that you pick out over a year ago.

Q. In other words, the answer is that you can't remember whether you saw any friends or not?

A. I can't remember what happened that day.

Q. You can't remember whether or not you might have said "Hello" to some of your friends as you were walking in to the glost belt?

A. No.

Q. You can't remember whether you might have stopped and got a drink of water on your way in, can you?

A. There isn't any place to stop and get a drink of water between the time clock and where we are.

Q. You are sure of that?

A. Positive.

Q. You are sure you didn't walk over to a drinking-fountain and get one?

A. No. I didn't walk anywhere.

Q. You are sure you didn't deviate at all from your course?

A. From the time I punched in, I would say I had to run to the belt, because it probably had started up.

Q. Did you wear finger cots?

A. No, sir.

Q. Did you ever wear gloves on your job?

A. Well, once in a while on a Friday we did get a pair of gloves for hot ware.

Q. Other than that, you didn't ordinarily wear gloves, is that right?

A. No, sir.

Q. Did you wear an apron?

A. Yes, sir.

Q. Do you remember whether you had an apron on that morning?

A. No, I don't.

Q. The chances were that you probably put on an apron before you began production?

A. Oh, there are times that the belt starts up and we all have to get into position without putting on an apron.

Q. Sometimes you wouldn't put on an apron until after production started?

A. Yes, sir.

Q. The particular part of the belt that you were working on that morning, you don't remember that either?

A. No, sir.

Q. You couldn't undertake to say, could you, exactly when you started production work that particular morning?

A. I wouldn't know definitely what happened that day or morning.

Q. The same thing, as a matter of fact, would be true on any other morning on this time clock card, would it not?

A. That is right, sir.

Q. By the way, you ordinarily went home for lunch, didn't you?

A. Not at that time.

Q. During what period of time did you usually go home for lunch?

A. It was during the latter part that I worked at the plant. Probably a month or so before I was—not even that—before I was discharged. It was about a mile to where I lived.

Mr. Lamb: When was that date of severance of your relationship with the company? Was that November, 1941?

A. Yes, sir.

Q. (By Mr. Cooper) How many hours do you claim that you worked on the day indicated by the top line of Exhibit 63-R, your clock card for the period ending October 15, 1940, when you punched in at 6:49 and punched out at 12:04?

A. How many hours do I claim I worked on that day?

Q. That is right.

The Master: Let the witness have a pencil and paper here.

A. I can see this. I would say around five and a quarter hours.

Q. (By Mr. Cooper) That was on the theory that you punched in 11 minutes before 7:00 and punched out 4 minutes after 12:00?

A. That is right.

Q. How about the next day? There you punched in—perhaps I could expedite this a little. And you punched in 11 minutes before, did you not?

A. Yes.

Q. And punched out again at 3 minutes after?

A. Yes, sir.

Mr. Lamb: After 12:00.

Q. (By Mr. Cooper) Punched in at 11 minutes before?

A. Yes.

Q. And punched out at one minute after?

A. That is right.

Q. Making a total of 26 minutes for that day?

A. Yes.

Mr. Lamb: 26 minutes beyond the quarter-hour.

Q. (By Mr. Cooper) The next day—

The Master (Interposing): You mean 26 minutes in addition to the time the company has credited him with, in other words?

Mr. Lamb: That is right.

The Master: Go ahead.

Q. (By Mr. Cooper) And the next day was 11 minutes?

A. Yes.

Q. And four minutes?

A. That is right.

Q. Then 11 minutes?

A. Yes.

Q. And then right on the quarter-hour?

A. Yes.

Q. Or a total of 26 minutes there.

The Master: That is 26.

Mr. Lamb: Yes.

Q. (By Mr. Cooper) And the next day there was 14 minutes?

The Master: Do you want to put these down and then you can add them up. That is right, isn't it, it is 14?

Mr. Lamb: Yes.

Q. And then—

The Master (Interposing): He is adding them all up himself. How many minutes altogether that day?

A. 41, that I didn't receive credit for.

Q. (By Mr. Cooper) 41. And the next day was 40, was it not?

Mr. Lamb: His answer was 41 minutes that he didn't receive credit for.

A. That is right, 40.

The Master: Under what?

A. Tuesday.

Mr. Lamb: Tuesday.

Q. (By Mr. Cooper) Now, adding those all up, it would come to 148, would it not?

A. Yes. • • •

Q. (By Mr. Cooper, continuing) And you were given credit for working 38 hours and 45 minutes? • • •

A. 38¾. • • •

Q. (By Mr. Cooper, continuing) And then if you added 148 minutes to that you would still be below 42 hours, would you not? * * *

A. Yes, I would still be below 42 hours.

Q. Then, you didn't do any work over 42 hours that week on any theory, did you? * * *

A. No, I didn't. * * *

Q. (By Mr. Cooper) In these answers that you were giving me a few minutes ago, you were computing your hours work from the moment you rang in the time clock until the moment you rang out, were you not?

A. Yes, sir.

Q. And during this period there was generally one day during each week when you only worked half a day, is that right?

A. That is right.

Q. And you were working on piece rates anyhow, were you not?

A. Yes, sir.

Q. And you got paid according to whatever number of pieces you made, did you not?

A. We were paid according to the number of cars turned out. * * *

Q. (By Mr. Cooper) It didn't make any difference to you, did it, in this period, witness, whether you punched out at 4:01 or 4:06; the amount you received would be the same in either case, would it not?

Mr. Lamb: Objection. First, we should find the period he is referring to, and, secondly, it doesn't make any difference—of course, he is entitled to be paid if he was on an hourly basis. * * *

The Master: Yes, but confine the question first as to the method under which he was actually getting paid, irrespective of whether that was the right method or not. On the method you were getting paid you got the same pay whether you punched out at 4:01 or punched out at 4:06, did you not?

A. That is right. * * *

Q. In fact, going back to the questions I asked you about this particular card, as to whether you could tell

me when you started production any particular day, that would be the same if I went through all the time clock cards, would it not?

The Master: That is, you mean that he doesn't have any independent recollection of the particular time when he started production on any day in the past?

Mr. Cooper: Yes, your Honor.

The Master: That is true, isn't it?

A. I could look at that card and I would know in the majority of cases the production belts were to start before ten minutes of 7, but I couldn't look at that card and pick out any days it was started before or after ten minutes of 7.

The Master: Looking at the cards, you wouldn't recall whether it was December 13, 1940, or any other day, would you?

A. No, sir.

Q. (By Mr. Cooper) Were there times in the day when the belt would stop for a little while, for one cause or other?

A. Yes, sir.

Q. During those times, production would stop, would it not?

A. That is right.

Q. Do you recall when you joined the C. I. O.?

Mr. Lamb: Objection.

The Master: I will take his answer.

A. I believe it was in February, 1941.

Q. (By Mr. Cooper) You were a steward, were you not?

A. At the time of the second strike, I was.

Q. Did you attend union meetings quite regularly?

A. Yes, sir.

Mr. Lamb: Objection.

Q. You told us, I think, yesterday, that you quite regularly attended union meetings?

A. Yes, sir.

Q. Did you go to practically all of them just prior to the first strike?

A. I went to several of them, at least half of them.

Q. Do you think you went to more than half of them?

A. I may have gone to more?

Q. How often were meetings held?

A. Oh, about once every 2 weeks.

Q. And you went to at least half of them and perhaps more?

A. Yes, sir.

Q. About how many persons would be in attendance at those meetings?

A. Well, that is hard to say; sometimes we would have 15 or 20 people, and then again at times we might have a hundred or more, and at times still more.

Q. Were you at any meeting where a resolution was passed with reference to the bringing of this action?

A. Yes, sir. * * *

Q. (By Mr. Cooper) I show you, witness, a paper taken from the court files in this matter entitled "Designation," and ask whether the name Nick Dacko appearing thereon is your signature (handing document to the witness)?

A. Yes, sir, it is.

Q. When did you sign that, if you recall?

A. I couldn't say.

Q. It appears it was filed in court July 8th, 1941; would that refresh your recollection as to approximately when you signed it?

A. I probably signed it sometime in June; I can't recollect.

Q. Where did you sign it?

A. I believe I signed it at the union hall.

Q. Did you have a talk with any other members of the union about signing it?

A. That is practically all we were talking about for a couple of weeks there.

Q. You talked with a number of union members as to signing the designation, is that right?

A. Yes, sir.

Q. You suggested to some of them that they should sign, did you not?

A. Yes, sir. * * *

Q. (By Mr. Cooper) Now, witness, do you recall who you talked with concerning the signing of this designation?

A. I don't think I could honestly state who I talked to about that.

Q. You knew at the time you signed it, did you not, that a number of union members were signing the designation?

A. Yes, sir.

Q. And you signed it, too?

A. Yes, sir.

Mr. Cooper: At this point, if the Court please, I just want to note that I had intended to ask some questions concerning the matter of contributions to the expense. I recognize that your Honor has ruled in advance on that. I would like to make a motion that I be permitted to ask such questions for a separate record. I think it might save time, and they can be later made a part of the record if the Court rules we are right on the cases we cite in our brief, otherwise they will be stricken.

Mr. Lamb: I thought they had already asked that the witness be available to be called back.

The Master: I think it would be better to do that, because that is a matter that the plaintiff may consider of a confidential character. I would do that if that question weren't involved. I think under the federal rules of pro-

cedure that procedure is supposed to be taken except where a question of privilege is involved. This may not be exactly a question of privilege, but it is something closely related thereto, and I want to be satisfied of your right to ask the questions before you ask them.

Q. Did you read the complaint before you signed the designation?

A. Yes, I did.

Q. And you knew what the complaint charged?

A. Yes, sir.

Q. You knew that the complaint charged that the time clocks were so fixed that if you punched the time clock at 14 minutes to 7:00 the time clock would show 7 o'clock?

. . .

A. I never understood it that way.

Q. (By Mr. Cooper) Did you know that the complaint charged that all the employees worked 45 hours every week? . . .

A. Yes, sir.

Q. (By Mr. Cooper) And you were working about 36 or 38 hours a week, weren't you? . . .

The Master: Make your question clearer. Are you referring to the average time he worked throughout the period?

Mr. Lamb: Every week.

Mr. Cooper: I want to refer to the period in autumn, 1940, when you were on the glost belt. You were working 36 or 38 hours a week, were you not? . . .

A. At that time I may have been, but I don't know how much time we spent on the meetings that wasn't recorded on the cards. Not all of them.

Mr. Cooper: I move the part with respect to the meetings be stricken under your Honor's ruling.

Mr. Lamb: I think it is highly proper to let this witness give his answer.

The Master: That is his claim. I have held it is not within the scope of the pleadings. . . .

Q. Where did you see this complaint?

A. I believe that it was read to us.
Q. You said before that you saw it.
A. Yes, I saw it, too.
Q. And you said that you read it?
A. I read portions of it.
Q. And who gave it to you?
A. I was up at the union hall, too.
Q. I said, who gave it to you?
A. I don't remember.
Q. Who read it to you?
A. I believe it was one of the organizers. * * *
Q. (By Mr. Cooper) Was that about the time you signed the designation, that you read the complaint?
A. I believe it is around the time.
Q. About the same time. Do you know what else the complaint charged? * * *
A. Well, I know it charged that we were punching in 14 minutes to, or approximately, and going right to work. And that some of the people were working for nothing before they punched. I don't know, I believe it may have said something—anyway, there was quite a bit of discussion on the matter where some of the boys went out and punched a minute, to lose a quarter or half-hour's time.
Q. (By Mr. Cooper) Do you say that the complaint charged your hours worked should be computed from the particular moment you punched the time clock, and that the company did not compute it that way, is that right?

* * *

A. I believe that if we would go to work directly from the time that we punched the card, that we should be given credit for that time.
Q. (By Mr. Cooper) You say that is what the complaint charges?
A. Yes, sir, I believe that is what it charged; I am not sure.
Q. Do you remember anything else the complaint charged?

A. No, sir.

Q. Have you ever been convicted of or pleaded guilty to a criminal charge?

A. Do you mean by "criminal charge," a felony or

Q. (By Mr. Cooper) Any kind?

Mr. Lamb: Now, may the Master instruct the witness as to his rights in that respect? * * *

A. I pleaded guilty to two charges under instructions from my lawyer. One was disturbing the peace in Mount Clemens, and another was on an injunction case, a civil injunction case. * * *

The Master: Just let me state this on the record. Pursuant to agreement of counsel, the cross examination is being interrupted so that Mr. Lamb may ask the witness some questions pertaining to the relationship between the defendant, the Mt. Clemens Pottery Company and the S. S. Kresge Company. * * *

Re-Direct Examination

By Mr. Lamb:

Q. Are you familiar with the property of the Mt. Clemens Pottery Company?

A. Yes, sir.

Q. Can you advise us whether there is painted or has been painted on the water tower of the Mt. Clemens Pottery plant, the words, "Owned and operated by the S. S. Kresge Company"?

A. Yes, that has been painted on there.

Q. Have you seen some parts of that particular water tower sign painted off of it?

A. The entire thing has been painted off since our first strike.

Q. And, I wonder if you can tell us whether there are other signs around the place, "Owned and operated by the S. S. Kresge Company"? Are you familiar with those?

A. No, I can't say that there are.

Q. Now, where, in reference to the Mt. Clemens Pottery plant is that water tower that has had those words, "Owned and operated by the S. S. Kresge Company"?

Whereabouts is the physical location of that water tower?

A. I believe it is on the roof of the plant.

Q. Facing which way?

A. It is at the far side nearest the golf course.

Q. Is that water tower on the roof of the plant so that everyone can see it?

A. Yes, sir.

Cross Examination (Continued)

By Mr. Cooper:

Q. You knew, did you not, Mr. Dacko, that under the wage and hour law, there was a reduction in the so-called maximum hours from 44 to 42, and then down to 40?

A. Yes, sir.

Q. Then there was a reduction in the hours of production at the pottery from 42 to 40 when you were there, was there not?

A. Yes, sir.

Q. And during all the time you were there, the hours were always computed on the same method, were they not?

A. Yes, they were.

Q. (By Mr. Cooper) Where are you working now, Mr. Dacko.

A. At the Hudson Motor Car Company.

Q. What plant?

A. United States Naval Ordnance plant.

Q. What kind of work are you doing?

A. I am a clerical worker.

Q. In the office, or in the shop?

A. It is an inspection office in the shops.

Q. And you say you don't punch a time clock?

A. No, sir.

Q. Are you paid a salary or by the hour?

A. I am paid a salary for 40 hours a week and then I get paid by the hour for overtime.

Q. And do you have a particular starting time for a day when you are supposed to be there?

A. Yes, sir.

Q. And you are paid from that starting time?

A. Yes, sir.

Q. Now, I think you said that you had a talk with foreman Willard Stief about the time you were hired, or shortly thereafter, concerning punching in at the time clock?

A. Yes, sir.

Q. You said you did have such a conversation with Mr. Stief?

A. Yes, sir.

Q. And did he tell you not to punch in the clock before 14 minutes to the hour?

A. After I had punched it in, I believe on one or two occasions on a quarter to the hour, I was told not to do that again.

Q. If you did punch it in right on the even quarter hour, your time would start right from then, wouldn't it?

A. Yes, sir.

Q. You said, I think, in your direct testimony, Mr. Stief also told you you would be docked 10 per cent for coming in late, is that right?

A. Yes, sir.

Q. Were you ever docked?

A. No, sir.

Q. You told us the other day you didn't know of any instances where others were docked, didn't you?

A. I don't know any specific names; no, sir.

Re-Direct Examination

By Mr. Lamb:

Q. Mr. Dacko, calling your attention to Exhibits 63-I, 63-J, 63-K, 63-L, 63-M, 63-N, 63-O, 63-P and 63-Q, I will ask you to advise us whether on the Monday mornings shown thereon, you did any work which is not indicated on the time cards represented by those exhibits?

The Master: Just for the record, would you give the dates of those?

Mr. Lamb: Yes. June 11, 1940; June 25, 1940; July 9, 1940; July 23, 1940; August 6, 1940; August 20, 1940; September 3, 1940; September 17, 1940; and this is December 1, 1940.

Q. (By Mr. Lamb) What is your answer?

A. I believe that on every one of these Monday mornings we came in in the morning and unloaded at least two cars on our own time before punching in.

Q. Will you estimate how long on each of those mornings you worked unloading those cars prior to punching the time clock? * * *

A. It was at least ten minutes.

The Master: What is the maximum?

A. About 12.

The Master: 10 to 12 minutes.

Q. (By Mr. Lamb) Can you give us the approximate date of the meeting that you attended of this United Pottery Workers when it was decided to authorize the institution and prosecution of a suit in behalf of the employees of the Mount Clemens Pottery Company, under the Fair Labor Standards Act of 1938—

Mr. Cooper: Objection.

Q. —which action was subsequently filed and is represented by case number—

The Master: 2582.

Q. (Continuing) —2582 on the docket of the court?

Mr. Cooper: I object to the question, if the Court please. The question goes beyond anything that was developed on cross examination this morning. It assumes matters as to which there is no evidence here, and it is attempting to avoid the best evidence rule by getting in oral testimony on something which—

Mr. Lamb: He has testified this morning—

Mr. Cooper: —can be proved only by the minutes.

Mr. Lamb: Not necessarily. This witness attended the meeting. He testified about that this morning, that he attended the meeting.

The Master: You asked the witness as to whether or not there was a meeting at which the question of authorizing suit was taken up, and he said yes.

Mr. Cooper: That is right.

The Master: And now you want to know the date of that meeting.

Mr. Lamb: The approximate date, as he can give it.

Mr. Nunneley: That wasn't limited to that. He went on with a whole lot of things.

The Master: He is revising the question now. All you want to know is the date of the meeting referred to on his cross examination?

Mr. Lamb: Yes. Give us the best recollection you have of the date of that meeting.

Mr. Nunneley: And I move the question be stricken from the record.

The Master: I will strike the previous question, and this question can be answered. The question is the date of the meeting you referred to on cross examination.

Mr. Lamb: Relative to authorization of the suit on behalf of the employees.

The Master: Yes.

A. I believe it was some time in April, just before our strike.

Q. (By Mr. Lamb) Would you be able to tell us how many days approximately prior to the strike? Can you give an estimate?

A. All I can say honestly was it was within 30 days.

Q. Was this 30 days prior to the date of the strike?

A. Yes, sir.

Q. I think you have testified that the strike was on or about April 14, 1940, is that right?

A. I think that is about right.

Q. Or 1941?

A. Yes, sir.

Q. Did you give us your employment dates when you left the Mt. Clemens Pottery Company?

A. I believe I did.

Q. Do you have a recollection now, approximately?

A. I began working in February, 1940, and I left on—the 21st was my last day, 1941, of November.

Q. 21st of November, 1941?

A. Yes.

The Master: Mr. Lamb has raised the point as to whether Mt. Clemens is in the eastern district of Michigan, and the Court will take judicial notice of the fact that it is. * * *

Mr. Lamb: So there will be no question about it, may we go back on the record, and the plaintiff will rest.

Mr. Nunneley: Now, first, what about those records the Court ordered produced?

Mr. Lamb: Well, I will discuss that with the Court.

The Master: Has there been any—

Mr. Lamb: I have all the records. * * *

The Master: Are there minutes of a meeting at which this suit was authorized?

Mr. Lamb: No, no minutes.

Mr. Cooper: Is the minute book in court?

Mr. Lamb: Yes.

The Master: Then there are no minutes in relation to any such meeting.

Mr. Lamb: No. * * *

Mr. Lamb: I produced the minutes relative to the minutes authorizing the institution of this suit, and in the minutes there is no reference to such a resolution having been adopted. I can prove that by the oral testimony of the last witness, and other witnesses.

The Master: Do you also have the constitution and by-laws.

Mr. Lamb: Yes.

The Master: Well, I think the proper procedure is for you to deposit these, the constitution and by-laws and the minutes, with the Court. I will not make them available to inspection of the defendants until such time as it may be shown that they have a right to inspect them in connection with testimony of any witness. * * *

Mr. Cooper: (Interposing) Couldn't we be heard on that, your Honor? Certainly we didn't have any understanding that the constitution and by-laws were going to be produced and go into secret custody. After all, what is the use of introducing the constitution without examina-

tion of it? How can we ascertain what is in it, or what questions can be asked about it, or who to ask them of?

. . .

The Master: I don't think they can take advantage of anything of that sort, and those handbooks must be widely distributed so that people can see them. I think in my discussion I intended to apply that only to the minutes.

Mr. Lamb: That is agreeable. . . .

(The constitution and by-laws above-referred to was then marked Defendants' Exhibit 64.) . . .

Mr. Lamb: Now I turn over to the Master two books representing the minutes of the organization.

Mr. Cooper: May I ask are they represented as being the complete minutes?

The Master: Mr. Lamb stated they were the complete minutes as far as he knew. . . .

Mr. Lamb: Plaintiff rests. . . .

June 16, 1942

Mr. Cooper: If the Court please, I am holding certain booklets marked for identification as Defendants' Exhibits 66 through 73, the booklets purporting to be copies of collective agreements and shop rules in effect in various factories. Before the trial is over, we may wish to offer these or some of them as exhibits, and I thought as a matter of convenience, I would like to ascertain at this time, if possible, whether or not there can be an agreement as to the identity or authenticity of these as being copies, so that I can gauge the necessity of the number of witnesses I may have to call for the purposes of identifying them.

I thought if it may be possible to have an agreement as to the identity of these, save on the question of materiality at such time as they may be offered, we might eliminate the necessity of calling witnesses for the purpose of identifying the particular books. . . .

PAUL C. BENZ, was thereupon called as a witness on behalf of the Defendants, and having been first duly sworn, testified as follows:

Direct Examination

By Mr. Cooper:

Q. Your name is Mr. Paul Benz?
A. That is right.
Q. Where do you live, Mr. Benz?
A. In Mt. Clemens.
Q. Are you employed by the Mt. Clemens Pottery Company?
A. That is right.
Q. And in what capacity?
A. I am plant engineer and superintendent of maintenance.
Q. Have you had professional training as an engineer?
A. Yes, sir.
Q. At what school or college?
A. Michigan.
Q. Mr. Benz, I show you a document marked Exhibit 30-A for identification, and ask you whether you can identify it?
A. I made that print.
Q. And what does it represent?
A. That is a floor plan of the plant.
Q. Is it drawn to scale?
A. It is drawn to scale of one to 20; that is one inch equals 20 feet.
Q. Can you state whether or not it represents accurately the dimensions and general outline of the plant?
A. Yes, sir, it does.
Q. Are you familiar, Mr. Benz, with the paths custom

arily followed by employees in reaching the various departments?

A. I am.

Q. I will ask you whether or not Exhibit 30-A for identification shows those customary paths?

A. It does.

Q. And how are they indicated, Mr. Benz?

A. In wide yellow marks.

Q. Whether or not it is customary from your observation for employees to follow the pathways indicated by the yellow lines on that exhibit?

A. That is the customary way to get to their department, to their place of employment.

Q. Is there any showing on that exhibit as to the location of the various departments?

A. Yes. The departments are marked, named.

Q. By lettered designations on the plat?

A. Yes, sir.

Q. And do the lettered designations indicate the location within the plant of the various departments?

A. Clarify that. You mean, if they show in general where these departments are?

Q. Yes, sir.

A. That is right, they do.

Q. Does the exhibit also show the location of the time clocks?

A. Yes, sir.

Q. How many time clocks are there in the plant, Mr. Benz?

A. There are three.

Q. Is that at the points marked "time clock A" and "time clock B" on the exhibit?

A. That is right.

Q. During the period from October, 1938, up to March or April, 1941, did you have three time clocks in the plant through all that period?

A. From October of 1938 to March of 1941?

Q. Yes, sir.

A. No. At that time there were two. I believe their third one was put in in the late winter or early spring of 1941.

Q. And how long is the plant?

A. The plant is over all just a little less than a quarter mile long. It is 947 feet for the main buildings of the plant, and the administration building is another 70 feet.

Q. How large an area is under roof, Mr. Benz?

A. About eight and a quarter acres; a little more than that.

Q. And an acre has about 43,000 some square feet?

A. 43,560.

Q. I will ask you, Mr. Benz, whether or not you are familiar with the time clocks which are used by the respective departments?

A. Yes, I am.

Q. I show you Defendants' Exhibit 65 for identification and ask you to describe to the Court in a general way what that shows, and how it was prepared (handing exhibit to witness)?

A. Well, this exhibit shows the various departments that are on the different clocks; that is, the clock marked "A" has the clay shop and bisque sagger filling department; the bisque carloading; the casting department; mold department; slip house; and the sagger departments.

Time clock "B" has the balance of the departments. And, shows also the distances to the various departments from the time clock. That is, the closest employees and also the farthest ones of each department.

Q. And did you prepare that table, Mr. Benz?

A. Yes. I made it off of this map.

Q. How did you determine the distances as shown on that table?

A. Scaled them.

Q. Can you illustrate to the court on that exhibit, Mr. Benz, the path followed by employees in the dipping and brushing departments from time clock B to the departments?

SUMMARY LINE 16, PAGE 2222 THROUGH LINE 6, PAGE 2225 AS FOLLOWS:

"Witness demonstrates the aisles which were followed."

Q. (By Mr. Cooper) Let me ask you, Mr. Benz, whether or not the path that you have indicated on the exhibit is the customary and shortest route to the department?

A. That is the customary and also the shortest route that you can get to that department from time clock B.

Q. Have you estimated, Mr. Benz, the distance from time clock B to the brushing and dipping department along that route?

A. Yes, sir.

Q. And what is the distance?

A. The closest part of the department, that is, that portion just inside of the door west of the chipping belt, that is, just west of the letter S on the word "selectors" on the print, is 385 feet, and the farthest point in the southwest corner in that department, just above the department marked "maintenance" on the print is 510 feet.

Q. Can you tell me, Mr. Benz, what time clock is used by employees working at glost carloading or glost sagger filling?

A. That is time clock B.

Q. And can you point out to the court the path ordinarily followed by employees in those respective departments from the time clock to the departments, taking the glost carloading first?

A. After they punch in, they follow west up to the point of where the doorway goes through the space marked "storage" and then at that point they turn north just a few feet and follow along the tracks of the carloading department in a westerly direction to their work. That would be the yellow line on the map shown under the name "glost carloading."

Q. Have you had occasion to determine that distance?

A. That distance to the nearest point that the cars

could be ready for loading is approximately 225 feet and the farthest point that the cars could be available for loading is 325 feet. In short, there is a certain limitation here which is variable according to where they stop the night before. The cars may be empty on this end of the line, or if they were behind, they may be empty on that end of the line. There is no definite set point in there.

Q. Do the employees working in the department marked "glost sagger fillers" follow generally a portion of the same path followed by employees in the brushing and dipping department?

A. They follow the same path as the employees in the brushing and dipping until they get across the overhead, then they distribute to the various points of work. The first conveyor of the glost belt is their point of work, and there are stations along here at approximately 5-foot intervals, and each girl has one of these stations. They range from approximately 50 or 60 feet, to the east of the overhead crossing up to the west end of the belt before mentioned.

Q. Have you had occasion to determine the distance from time clock B to the glost sagger filling department?

A. That ranges between 310 feet, which would be the closest girl, approximately, across the bridge, and 420 feet to the girl on the farthest west end.

Q. Mr. Benz, can you tell me what time clock is used by employees working in the clay shop?

A. The clay shop uses time clock A.

Q. Can you indicate the path customarily followed by employees in the clay shop from time clock A to the clay shop?

A. Time clock A is along the north wall of the building, and is indicated on the map accordingly. They, after punching in, travel west along the north wall of the building, up to the point where the path turns south on the east end of the bisque kilns. From there they go south, they travel south until you reach the aisle going west on

the south side of the bisque belt. The bisque belt is indicated on the map by the lettering "Bisque sagger filling," which is written directly over the conveyor.

From there they travel west along the north side of the clay shop toilets up to the north and south mangle line, where they have to angle a few feet north, and then continue west along the north side of this line of mangles to about 20 or 30 feet west of the mangles, where they again jog south a few feet and then continue their travels west along the north side of another line of mangles running east and west.

Now, their department ranges from the east side of the north and south mangles up to the west end of the plant.

Q. How long is that department, by the way, Mr. Benz?

A. Do you mind if I scale that?

Q. All right.

A. About 410 feet.

Q. And how far is it from time clock A to the clay shop?

Mr. Lamb: What department was that?

Mr. Cooper: Clay shop.

A. The nearest employee is approximately 400 feet from the clock, and the farthest employee approximately 800 feet from the clock.

The Master: After they proceed on the path to the position where they leave the path and go to their place of work do they sometimes have to travel through these mangles quite a distance to get to their place of work?

A. Well, these mangles are in closed conveyors that carry the ware from where it was made through a dryer to the point of the girl that finishes the ware. Now, the man making the ware on these particular line of mangles, that is the north and south along here and here, they will travel down this aisle between them, where the girls would travel down on the east side and west side of the line, and one employee, or about four employees are situated directly east on the east line of mangles on what we call the oval ware job. That would be the closest job.

Q. And what time clock, Mr. Benz, is used by employees in the decorating department?

A. The decorating department uses time clock B.

Q. Can you indicate to the Court on Exhibit 30-A the path customarily followed by the employees from time clock B to the decorating department?

A. They start out as our other employees do on time clock B going west from the clock to the point where the doorway goes through the space marked "Storage," and they go directly south to their department, their department being directly south of the decorating kilns in the area that on the print would be almost due south of time clock B and the glost unloading.

Q. And have you determined the distance from time clock B to the decorating department?

A. The employees closest to the clock are approximately 170 feet from it, and those farthest about 350.

Q. By the way, Mr. Benz, are there certain toilets located within the plant which are not indicated by lettering on Exhibit 30-A?

A. I notice that I omitted lettering the so-called clay shop toilet rooms. I can indicate them with pencil, if you wish, if you will permit it.

Mr. Cooper: I think that would be all right.

The Witness: You want me to mark them?

The Master: Yes. Why don't you just mark them?

(The witness then marked on the Exhibit.)

The Court: These toilets that you have marked are just to the east of the first line of mangles, or I guess the only line of mangles in the clay shop?

A. The north and south line. They are about—the closest point of the clay shop toilets are about 30 feet from that east battery of north and south mangles.

Q. (By Mr. Cooper) Does it appear on Exhibit 30-A, Mr. Benz, that the kilns in some of the storage space are closer to the time clocks than the various departments you have been discussing?

A. The kilns in some of the storage space are closer? Well, the time clock A is directly north of the west end

of the glost kilns. Time block B is along the south wall of what we call the kiln building. That is, they are on the south side of the glost kilns.

Q. Is the concentration of employee work stations greater in the kiln departments or are there more employees working elsewhere than in the space occupied by the kilns?

A. Elsewhere, because the kilns employ comparatively few men.

Q. The employees generally have to get by the kilns to get to their various departments, is that right?

A. Yes, sir. They can't get out of it.

Q. Are the employees pretty well scattered over the entire 8 acres under roof?

A. Well, the northern portion of the plant is used by the kilns, but otherwise they are scattered pretty well over the south three-quarters of the plant.

Q. Did you testify, Mr. Benz, that on Defendant's Exhibit 65 you indicate under the heading "Time clock A" the various departments using that time clock?

A. I enumerated those, yes.

Q. Does that include all of the departments using that time clock?

A. That is correct.

Q. And what departments are listed under time clock B? Perhaps I better rephrase the question. Whether or not under time clock B you have listed the departments where the employees use time clock B?

A. I have.

Q. Does that include all departments using that time clock?

A. That is right, it does.

Q. And have you indicated on Exhibit 65 the distance from the respective time clocks to the departments using each time clock?

A. I have. The closest and farthest.

(Exhibits 30-A and 65 received in evidence.)

• • •

Q. (By Mr. Cooper) Let me ask you once more, Mr.

Benz, whether or not the paths as indicated on Exhibit 38 are the paths which are customarily and usually followed by employees going to the departments that you have described?

A. They are. * * *

Q. (By Mr. Cooper) And whether or not the paths which you indicate on Exhibit 30-A are the shortest and most convenient paths to reach the various departments without crossing or climbing over machinery?

A. They are the shortest and most convenient. * * *

The Master: Did I understand you to say that there were none or few employees working in the space where the glost kilns are located?

A. Only the firemen, the kiln firemen and the pusher men. * * *

Cross Examination

By Mr. Lamb:

Q. As I understand it, Mr. Benz, you didn't propose to give the impression by drawing these yellow lines on this Exhibit 30-A, that these were the only aisles available to the employees getting to their various jobs?

A. I think I qualified it by saying there were numerous other aisles.

Q. These would be your impression of what should be the shortest and best route to their jobs?

A. That is my observation of the route they generally use.

Q. As you say, there are numerous other aisles throughout the plant which are available to the employees?

A. That is right—well, wait a minute, "available." Some of them are not available to them, but they use them.

Q. You mean there are some aisles which you have informed them shouldn't be used by them?

A. Because of the danger of getting hurt.

Q. Then there are other aisles which are used by

them, which are not marked with your particular yellow mark?

A. That is right. I will give you an example of that. Between the kilns there is an aisle, but sometimes the trucks will block that aisle and it is not generally used, but if they see the space open, some of them will go through there.

Q. Yes. You mentioned the glaze room, and I was interested in knowing on the particular route which you have marked from the time clock B, do the employees go down the east-west line which appears as the second yellow line from the top of Exhibit 30-A, or do they go down the south line which is the easternmost yellow line on the map to get to the glaze room?

A. I have never observed them going along the south line, because that route is further. They would have to come to the south end of the chipping belt and then double back to the north end through the dipping department, and unless weather conditions were such that it was not undesirable to walk along the line of tracks and work in the south end. Going along the tracks into the south end of the building; that would be farther than to take this route I have indicated.

Q. If an employee worked in the south end of the glaze room, is it your testimony he would have traveled by taking the northern line which you have marked on the route to the glaze room, or the southern line which you have referred to?

A. The southern line, you mean going along the railroad siding?

Q. Yes.

A. Outside the buildings.

Q. Referring to the line.

A. In my opinion the line outside the buildings would be longer, because he is traveling farther south than necessary. There is, incidentally, no particular work going on directly inside the door. The only time they come in there, there is a wash rack located alongside the door, to wash off their screens, whenever they get through with

a ran, glaze. Otherwise there is no work going on here. Most of the work is in the center of that department.

Q. Do the employees in the bisque kiln department use time clock B or time clock A, Mr. Benz?

A. All kiln employees use time clock B.

Q. That is some rule of the company?

A. Well, they belong in that particular department and are paid on the same date that time clock B is paid.

Q. But are employees who work in the bisque kiln department, in that place indicated by the yellow circle between the words "Bisque Kiln Department" closer to time clock A or closer to time clock B?

A. They are closer to time clock A.

Q. You say, however, that they are required to punch the time clock B, is that right?

A. That is correct.

Q. The employees who are next to them in the bisque carloading department indicated right under the words "bisque kilns," the bisque carloading, do they use the time clock A or time clock B?

A. Time clock A.

Q. And they are closer to time clock A, are they not?

A. Yes, sir. It would be about the same. (Measuring on the exhibit.) Yes, they are.

Q. Now, all of these employees over here, indicating the western side of your Exhibit 30-A and including bisque carloading, bisque sagger filling, the clay shop, engine room, boilers, slip house, and so forth, they are included in time clock B, are they?

A. Well, the boiler and engine room is time clock B. Clay shop is time clock A. Slip house is time clock A. bisque sagger filling is time clock A. And all points west of there are time clock A.

Q. Yes, and time clock B—what employees on the western side of this map, Exhibit 30-A?

A. The boiler room employees.

Q. The boiler room employees. Are they the only ones?

A. They are the only ones.

Q. Who have time clock A?

A. That is right. Outside of the kilns.

Q. But the bisque kiln?

A. They belonged to time clock B.

Q. They belonged to time clock B. Do I understand your testimony, then, that the employees are given a time clock without reference to the distance from the time clock?

A. Well, I am not too well acquainted with the office routine to be able to give you the direct reasoning of it. However, the employees using,—the employees on the kilns come under the leadership of the department that has most of its employees in the east end of the plant. And, the employees on one clock are paid on one week-end, and the employees on the other clock on the following week-end, so these employees all come under the same grouping, same type of work, the same men: glost kilns and bisque kilns.

Q. You are referring to the employees, we will say, of the northern part of the Exhibit 30-A, is that right?

A. Meaning the kiln men.

Q. Yes.

A. That is right.

The Master: You said there were very few men in the glost kiln department. That also applies to the bisque kiln?

A. They are manned the same way, same number of men.

Q. (By Mr. Lamb) Are you able to estimate the number of men in the glost kiln and bisque kiln?

A. I can't give you an accurate enough figure.

Q. Would it be 50 or 100?

A. Oh, no. I don't think there is 30 men involved in the entire setup.

The Master: For both the departments?

A. Yes.

Q. (By Mr. Lamb) Now, the glost carloading employees are under which time clock?

A. The glost carloading are on B.

Q. Are they immediately adjacent to the glost kiln department?

A. They are directly south.

Q. How far south from the glost kiln department?

A. Now, when you say "department," do you mean to the closest kiln, or how do you want that clarified?

Q. Well, you have made this map, and, of course, the rest of us will have to ask you about this map, but I notice the word "glost carloading" on the northern side of the line dividing the glost kiln department from, for instance, the glost sagger department.

A. Maybe I better explain where these people work.

Q. Is that the dividing line?

A. No. There is no work going on in the area directly north of the glost car marked on the print. That is storage space for cars.

The plant is so operated that in five days' time they have to produce enough ware to last over the week-end as the kilns never shut down. They go day and night, 365 days of the year. Therefore, a large portion of the end of the plant is set aside for storage of the ware that is finished, or ware that has come out of the kiln. There is no work going on in there.

Q. Where do the employees, glost carloading employees, work?

A. They work on the north side of the glost belt. That belt is just south of the line indicated as glost carloading. They take the ware off of the belt, the filled saggers, and build them up onto the cars which are located just north of this line of columns shown on the print.

Q. What maintenance employees have you marked, have you referred to, in your Exhibit 65 to say that they are 550 feet at the nearest point from the time clock B?

A. The maintenance department is south of what is marked the dipping department. That is merely what we call the carpenter shop. That is where they keep their toolboxes. Some of the men keep their toolboxes on a bench along the west side of the department marked "maintenance"; some of them have them along the east side, and adjoin this to the point they go to get their

tools or put on their overalls, and that is either on the west or the east side of that particular department.

The Master: May I ask, do the maintenance men in the morning proceed immediately to their department, or do they proceed directly to the job that they are working on?

A. No. They all proceed to their department, because in the evening when they are through with their work they go to their so-called maintenance department, take off their overalls, lock up their tools, and then go home, and in the morning if they proceed on their job, if it is the same job, they have to go back and get their tools; otherwise they wouldn't be there in the morning.

Q. Do I understand that the employees who use time clock B have the exclusive use of the toilet and cloak rooms appearing on the easternmost part of your map, 30-A, and the employees who use time clock A have the exclusive use of the toilet and cloak room which appears at the northern part of the map?

A. That statement is correct.

Mr. Lamb: Thank you. That is all.

Cross Examination

By Mr. Boos:

Q. Mr. Benz, as plant engineer and superintendent of maintenance out there, do you have occasion to go up on the roof of the plant?

A. I do that at fairly regular intervals as a matter of inspection.

Q. When you are up there on inspection, do you ever have occasion to notice the water tower that is on the roof of the plant?

A. The water tower isn't on the roof; it is in a small court which the building now surrounds. I go up on the tank also at intervals to see what the condition of the tank is.

Q. How long have you been out there at the plant?

A. Since May of 1934.

Q. Is there any lettering or sign on that plant at the present time?

A. Yes, on the north side of the tank are the words "Mt. Clemens Pottery Company."

Q. Since 1934 was there any other sign besides "Mt. Clemens Pottery Company" on that tank?

A. Yes, sir; there was in addition to that "Owned by S. S. Kresge Company" directly below the "Mt. Clemens Pottery Company."

The Master: What was the comparative size of the lettering?

A. The lettering of the "Mt. Clemens Pottery Company" and "S. S. Kresge" were about alike, that is, about 2½ feet high, about 30 inches, and the "Owned by" was a little smaller, I think about 6 inches smaller.

Q. (By Mr. Boos) Do you happen to know a former employee out there who is known on this record at least by the name of Nick Dacko?

A. I have heard of him; I didn't know him.

Q. Since 1934 was there ever any sign on the tank of the Pottery which said "Owned and operated by S. S. Kresge Company"?

A. No, sir.

Q. As testified by Mr. Nick Dacko?

A. There never was that lettering on the tank.

Q. By the way, can you see the lettering that has been painted out at the present time?

A. If you go up on the upper platform of the tank, yes, you can still trace it.

Q. The lettering was in what color?

A. White.

Q. And superimposed over the white has been what color paint?

A. The dark green that the rest of the tank is painted.

Q. Had the lettering of the words "Owned by S. S. Kresge Company" been repainted within your knowledge before it was painted out?

A. Oh, yes, I believe two or three times.

Q. One coat superimposed over the other coat?

A. That is right.

Q. Can you still see the raised letters through the green paint?

A. They have been painted so many times that they still show through the green paint, that is, they do not show white, I mean you can follow the outline because the paint is heavier on the letters than it is on the rest of the tank. * * *

Re-Cross Examination

By **Mr. Lamb:**

Q. When did you say that that lettering was painted over?

A. What portion was painted over?

Q. No, when did you say that business about the ownership of the S. S. Kresge Company—when was that painted over?

A. I don't remember that I did say.

Q. I beg your pardon?

A. I wasn't asked that.

Q. No, I am asking you.

A. Oh, I see; that was in the early summer of last year.

The Master: Do you know the reason why that was painted over?

A. No, sir; Mr. Doll told me to re-paint it, leave that out. * * *

Re-Direct Examination

By **Mr. Cooper:**

Q. Is there anything, Mr. Benz, which prevents an employee from making use of any restroom or toilet which may be convenient to him?

A. No.

Q. I understood you to testify that employees using time clock B had the exclusive use of the toilet rooms at the easternmost part of the plant. Did you mean by that

to indicate that any other employees were not permitted to use those toilet rooms?

A. I know of no definite restrictions preventing them from using it. It has just been a matter of custom, probably, that they use the cloak room which is closest to their route of travel. * * *

Q. (By Mr. Cooper) Can you state, Mr. Benz, whether or not the routes you have indicated on Exhibit 30-A as the usual and customary routes are kept clear for employee travel?

A. These particular routes indicated on this print are the routes that are kept clear for employee travel. * * *

Q. Are the other aisles in the plant that you spoke of as being in existence likewise kept clear for employee travel?

A. Well, some of them are. The reason I didn't indicate some of them are because they are longer than the routes shown and are not the ones commonly used.

Q. There are some longer routes through aisles which are ordinarily clear?

A. That is right.

Q. Then there are other aisles which might be as close as the paths you have indicated which are not kept clear?

A. Through some of the departments, yes.

Q. Will you state from your observation whether or not these alternate routes are used except by an occasional employee?

A. You mean for the purpose of coming to and from their place of employment?

Q. Yes, sir.

A. No, sir, they are not used, in general.

Q. Can you say whether or not an examination of the water tower in the plant reveals exactly what language had been on prior to the time it was painted over last summer?

A. Yes, sir. To clarify that, if the Court wishes, or Mr. Lamb wishes to send someone up there, I would be glad to take them up and you can trace out the letters, if that will clarify it. * * *

ROBERT A. FITTON was thereupon called as a witness in behalf of the Defendants, and being first duly sworn, testified as follows:

Direct Examination

By Mr. Nunneley:

The Master: What is your full name?

A. Robert A. Fitton.

Q. Your name is Robert A. Fitton?

A. Yes, sir.

Q. Where do you live, Mr. Fitton?

A. I live in Mt. Clemens. The street,—do you want the street?

Q. Yes, you might give it.

A. I live on 103 North Rose Street, Mt. Clemens.

Q. Are you employed at the Mt. Clemens Pottery Company?

A. Yes, sir.

Q. How long have you been employed there?

A. Well, approximately 15 or 16 years.

Q. And what have you worked at there?

A. Well, I have worked at the bench, batting out, jiggering, and as an assistant foreman.

Q. And what is your present position?

A. Assistant-foreman.

Q. And how long have you been an assistant-foreman?

A. Oh, I would say about 12 or 13 years.

Q. Do you know Mr. Lamb here?

A. No, sir. Never seen him before, until today.

Q. Did you start a suit in Toledo against the Mt. Clemens Pottery Company within the last year or so?

A. No, sir.

Q. Did you ever authorize anyone to start a suit in your name against the Mt. Clemens Pottery Company, any kind of a lawsuit?

A. No, sir.

Q. When did you first learn that there was such a suit?

A. Why, to tell you exactly the time, I couldn't say, but a while back Mr. Doll asked me if I knew that I had started a suit against the company.

Q. That is the first news you had of a lawsuit?

A. That is the first that I had any idea of it.

Q. You never saw any of the papers connected with it, did you?

A. No, sir.

Q. Now, when you are working for the company in what department do you work?

A. Clay shop.

Q. And how long have you been working in the clay shop?

A. About 15 years.

Q. And just tell us, briefly, what is done in the clay shop.

A. Well, the clay shop is where they take the clay and they form it into the dishes before the first baking.

Q. And just briefly, in general, how is that done?

A. Well, we have the two operations. We have what we call the hand jobs and then the automatic jiggering. The hand job, of course,—there are three people on there. The batter-out, he flattens the clay and puts it on the form; the jigger man puts it on the wheel and polishes it up; and on the back end of the machine there is a girl and she takes it off of the forms and finishes the edges and the faces.

Q. That is, three people worked together doing that, is that correct?

A. That is a three-person operation.

Q. And can they operate individually, or do they all three have to be there in order to operate?

A. Well, they can't work individually, it takes three of them.

Q. In other words, if one of the particular group is missing the other two can't work, is that right?

A. That is right.

Q. And now you say another part of the work has to do with machines?

A. With an automatic machine, yes, sir.

Q. And what does the automatic machine do?

A. That automatically forms and polishes the ware, and of course it employs an operator to run the machine, and the back end is the same as it is on the hand job, the girls take it off and finish it up.

Q. How many girls are there on the machine?

A. Total girls, finishers and everything?

Q. Yes, that is on a machine?

A. On a machine there is approximately about 20 to 24 girls.

Q. Working on the machine?

A. On the machine.

Q. And there is an operator for that, is that correct?

A. There are three men, operator, pugger, and operator's helper.

Q. And in the case of these people, can they operate before the machine starts?

A. No, sir.

Q. Can the machine operate unless it has practically a full crew?

A. No, sir.

Q. Now, speaking of the jigger man and batter-out, what do these people do when they come to work?

A. After they leave the time clock you mean?

Q. Yes.

A. Well, they walk to their respective jobs and they straggle in and start getting ready, that is by taking off their shirt and putting on their aprons and they have their so-called tools, their scrappers, that they have to bend over and shape them up and get ready so they can go to work when the rest of the crew is all there.

Q. What is the normal starting time in that department?

A. The normal starting time, up until recently, was 6 o'clock.

Q. Was there an afternoon shift also?

A. That was also at 2:45.

Q. 2:45. And did work start before 6 o'clock?

A. On an average it started after 6 o'clock.

The Master: Let's just get that clear. What type of work are you referring to? Are you referring to actual production work on the job, or did you include the preliminary work that you have already testified to of fixing up the tools, and so forth?

A. That is around 6 o'clock.

The Master: Well, you mean they start fixing up the tools—

A. (Interposing) When they get to their job they start getting their shirt off; the fixing of their tools is a very, very minor operation.

The Master: The taking of the shirt off, after fixing the tools, you mean that doesn't start until 6?

A. Approximately 6 o'clock.

Q. (By Mr. Nunneley) How long before 6 o'clock are the people permitted to pass the time clock?

A. Well, they are allowed to use their discretion, as long as they are in there by 6 o'clock.

Q. Is there a limit on how early they can come in?

A. There is a limit on how early they can start; they can't start coming in until 14 to 6.

Q. Is there any requirement that they be there any time—has there ever been any requirement that they be there any time before 6 o'clock?

Mr. Lamb: Objection. This witness wouldn't know.

A. No requirement.

The Master: Within his knowledge.

Q. (By Mr. Nunneley) During the time you have been there?

A. No, they have only been told the actual starting time, which is 6 and 2:45, we specifically state that.

The Master: When you say "we specifically state that," who do you mean?

A. Foreman. The foreman of the particular department there.

Q. (By Mr. Nunneley) Did you so state it to the employees?

A. I have.

Q. Now, Mr. Fitton, have you attended foremen's meetings?

A. Regularly.

Q. And how often are foremen's meetings held?

A. Every Tuesday.

Q. At those meetings, do you know whether there was any discussion of the Wage Hour Act?

A. Very much.

Q. And who discussed it with you?

A. Mr. Doll always took the floor.

Q. And were directions given to you, as foremen, what to do regarding it?

A. Yes, sir.

Q. Can you tell us in general what the directions were?

* * *

A. And the labor law, when it was in effect, of 44 hours, we were instructed to tell the employees to hold under 44 hours, they weren't to go over. And at the expiration of the 44 and the coming in of the 42, we were told likewise. Also at the expiration of the 42 and the coming of the 40, we were always told to hold them under there so that they could have a leeway of three-quarters of an hour or an hour.

Q. (By Mr. Nunneley): Whether or not those directions were carried out, Mr. Fitton, to your observation?

A. To my knowledge they were.

Q. Of the people you had under your control?

A. Yes, sir.

Q. And you say your work was in the clay department?

A. In the clay shop, clay department.

Q. How many people, approximately, would be under your jurisdiction?

A. Well, prior to the machine I would say about 75 to 85 people. I have had as high as 109.

Q. You have had as high as 109?

A. Yes.

Q. Were the people ever permitted to work overtime or over the legal amount?

A. No, sir.

Mr. Lamb: Objection, and ask that the answer be stricken. * * *

Mr. Lamb: All he can testify to is what he knows, obviously.

Mr. Nunneley: Obviously he can't testify to anything else.

A. To what I know, no. The answer is "no." * * *

Q. (By Mr. Nunneley) Do you know John Metz?

A. Yes, sir.

Q. Did he work in your department?

A. Yes, sir.

Q. And were you over him as assistant-foreman?

A. Supervisor.

Q. Do you know of Mr. Metz coming in without punching the time clock, and changing molds?

A. To my knowledge, no. * * *.

Q. (By Mr. Nunneley) Did you ever have any talk with him about that?

A. Yes, I have. In his type of work, the manufacturing was a piecework proposition and the mold change was paid by the hour—not by the hour; so much for the job. And he has asked at times, could he not work the full 8 hours on piecework and then come back and do the mold change, in which he would be getting paid twice for the same amount of time, and we have told him, absolutely no, we have no authority to allow him to do it.

Q. Do you know Earl Larrimer?

A. Yes, sir.

Q. What department did he work in?

A. Same department. * * *

Q. And what kind of work did he do?

A. He was a jigger man.

Q. And do you know whether he ever came in early and changed molds? Came in without punching the clock and changed molds?

A. Not to my knowledge, no.

Q. Did you talk to him about that?

A. I believe he has on occasions asked the same question as John Metz, could he be permitted to come in and do it on their own time, thereby allowing them to make more money on their piecework rates.

Q. And what was the direction?

A. I gave him the same answer that we were not allowed to change the ruling made, that the labor laws were made and passed by President Roosevelt and we had no authority to change that whatsoever.

Q. Do you know how the time is computed from the time clock cards, Mr. Fitton? * * *

A. Well, if they would be ringing in a trifle before six their time would be computed from 6 until the time they went out, which would be 10:30, and then they are ringing back in at 11; or prior to that, and their time would be computed from 11 to 2:30, which would be the quitting time of the department. * * *

Q. (By Mr. Nunneley) Mr. Fitton, in general you say the starting time was 6 o'clock in your department?

A. Yes, sir.

Q. In the morning, for the morning shift?

A. Morning shift.

Q. And what would you say as to whether or not the employees started to work before 6 o'clock?

Mr. Lamb: Objection.

The Master: I will take his answer.

A. No. I would say no. The average would probably take me 15 or 20 minutes to get around, and a lot of times by 15 and 20 after 6:00 some of them were just getting started.

The Master: What did they do all this time?

A. They straggled in. Some of them don't reach in

there until right on the minute, and it takes them a little time to get rearranged so they can go to work.

The Master: If an employee comes in and punches the time clock at 10 minutes to 6:00, what time will he get to the department to work?

A. Why, if he punched in at 10 to 6:00, I would say he reached there by two or three minutes to 6:00.

The Master: It would take seven or eight minutes to get to the department?

A. I would say so, according to my observation and myself.

The Master: Have you ever timed that?

A. I have not timed it.

The Master: That is your guess or estimate?

A. That is my estimate.

The Master: Then, if he gets in at two or three minutes to 6:00, in the department, what does he do after that?

A. Well, a lot of cases he has to wait until the finisher gets there.

The Master: Can't he get ready in the meantime?

A. Well, he is ready, but he can't work until the whole crew is there.

The Master: Just what does he do when he gets into the department at two or three minutes to 6:00? What is his next step? Does he wait for the finisher or do something in the meantime?

A. He just takes off his shirt and usually waits in the meantime.

The Master: You said something about tools.

A. He has a scrapper and usually bends that. It takes about a second to bend that over.

The Master: Are there any other sort of odd jobs he does?

A. No, he has no odd jobs. The water is brought to him, and the clay is brought to him. Everything is ready.

The Master: If the finisher came in at two minutes to 6:00 and arrived in the department at the same time, what would she do?

A. If she came in at 10 to 6:00 I presume he would try to go to work, but as a rule she never got in; she is on the last end of the line. As a rule there are about 300 punching in the same clock, and it is impossible for the last ones punching, which was the finishers, to get in anywhere before 6 o'clock.

The Master: What time, according to your best estimate, would be the average time that the finishers would punch in the clock?

A. About one or two minutes to 6:00.

The Master: They would punch in the clock at one or two minutes to 6:00?

A. On the average, yes, that would be my estimate on the average. They are on the last end of the line.

The Master: Then it would take them 7 or 8 minutes to get over—

A. (Interrupting) As I have stated before, it is sometimes 10 to 15 to 20 minutes after 6:00 before they are under operation.

The Master: Go ahead, Mr. Nunneley.

Q. (By Mr. Nunneley) Mr. Fitton, you say before you were a foreman you were a jigger man?

A. Yes, sir.

Q. And what is a scrapper?

A. A scrapper is a piece of metal that you bend at a certain angle to run this piece of where it is polishing to trim the outer edge off the heavier scrap to make a finished edge, that makes it look like a dish; it is an excess clay.

Q. Does each jigger man have a scrapper?

A. It is a tool that a jigger man can't get along without.

Q. During how many years have you been there?

A. I have been there around 15 years.

Q. Are those tools always cared for by the jigger man?

A. To my knowledge they have always been cared for by the jigger men, at least while I was there.

Q. Who owns them?

A. Who owns the tools?

Q. Yes.

A. The jigger men themselves.

Q. They are personal tools?

A. They are personal property, the jigger men have.

Q. The same as a carpenter has a saw?

A. Under the same circumstances, the same as a bricklayer has his own trowels.

Q. You say he has to bend them over in the morning?

A. Usually he brings them in straightened down and he bends them to suit whichever piece of ware he is going to make. Sometimes the different shape of ware will take a different angle of a scraper, depending on how the edges runs on it.

Q. And he changes that to fit whatever he is working on?

A. That is right.

Q. Does he sharpen them, does he sharpen them himself?

A. Yes, he sharpens them himself too.

Q. Does he do it there or bring them in sharpened?

A. Well, I have seen it done both. Some will do it at home and some will bring them in and make them right there.

The Master: When do you get in the department in the morning at the 6 o'clock shift?

A. I would say I get in about 20 to 6:00.

The Master: Do you have to punch a clock too?

A. No, sir.

The Master: Do you come to the department by the same route that the employees take?

A. I do.

The Master: And then what did you do after you get in?

A. Why, we check up to see that all the jobs are in running order and ready to go.

The Master: Well, do you make the rounds of the department beginning at any particular time after you get there to see that the employees have started work, going ahead?

A. I try to be on the line at 6 o'clock; there is a little work to be done that you may have—that you want to note down something, and probably—I do try to be out on the line at six to see that they are getting in and ready to get started.

The Master: Is there a clock in the department?

A. Is there a clock—several.

The Master: Are those company clocks or just clocks that the employees have?

A. Well, there are in the department, I think there are three electric company clocks.

The Master: Have you had the experience of going around at 6 o'clock and finding most of the employees busily at work?

A. I never had that experience.

The Master: Have you had the experience of ever finding any of them at work at 6 o'clock?

A. Well, no, very seldom that you would see anybody ready to go at 6 o'clock. As I have stated before, I would make one round and it would be 20 after 6:00 before you would actually see everybody under production.

The Master: Do you know if you, any time in the 12 or 13 years—let's not go back 12 or 13 years, the last three or four years, that you have seen any employee at work previous to 6 o'clock, or at 6 o'clock, when you start making the rounds of the department?

A. No, I can't say as I have.

The Master: Have you seen any employee fixing up his tools at that time?

A. Oh, yes, I have seen them making their scrappers, which is a part of their own work.

The Master: Do you ever tell them not to do it until 6 o'clock rolls around?

A. No, I don't know as I ever told them.

The Master: How long before six would they be making the scrappers?

A. Oh, probably one or two minutes.

The Master: As much as ten minutes before 6:00?

A. No, sir.

The Master: Five minutes?

A. No, sir.

The Master: All right, Mr. Nunneley.

Q. (By Mr. Nunneley) Now, you spoke about going around by the jobs; what do you mean by the jobs, Mr. Fitton?

A. I make a round to see that everyone is there and every crew, that is a full crew, and in some cases where they don't have a full crew one is missing off of one crew, we try to double the crew up so those that are there will have the opportunity to go to work.

Q. When you speak of them as "jobs," do you mean individual jobs?

A. Yes, sir.

Q. What do you mean by that?

A. The individual job is the jigger man, batter-out and finishers.

Q. You spoke about a mangle.

A. That is a job, that is where they work on a mangle.

Q. They work on a mangle?

A. That is right.

Q. When you spoke about going along and looking over the job, you meant to see if the groups were working, is that correct?

A. Every individual group, yes, sir.

Q. And it is part of your work to inspect and go along and see if everybody is ready to work and the work is going on, is that correct?

A. That is part of my job, yes, sir.

Q. And if the batter-out shouldn't happen to show up for a given crew, what do you do about that?

A. Well, if there is an odd batter-out or jigger man, I would put them together, if not the rest of the crew would have to go home.

Q. In other words, if any one of the three isn't there, either the batter-out, the jigger man or the finisher, they can't work unless there is somebody else late in some other crew so you can put them together, is that correct?

A. That is correct.

Mr. Nunneley: Take the witness.

Cross Examination

By Mr. Lamb:

Q. Mr. Fitton, did you appear here in response to subpoena?

A. Did I appear here in response to a subpoena?

Q. Yes.

A. No, sir.

Q. Who asked you to come down?

A. Mr. Doll asked me to come down.

Q. Mr. Doll, as I understand it, told you that you were represented in this suit or a suit in Toledo against Mt. Clemens Pottery Company?

A. As I understand it, this was this suit, from Toledo.

The Master: What was your answer?

A. As I understand it, I am represented in this suit.

The Master: In Toledo?

A. And it was from Toledo, as I understand it. It was filed in Toledo. I may be mistaken.

Q. (By Mr. Lamb) Let me ask you, is it your understanding that you are represented or that you have been named as a party represented in this suit?

A. As I understand it, I have been named as a party in this suit against the Mt. Clemens Pottery Company.

The Master: May I ask the attorneys for information

as to whether there is another suit pending in Toledo against this same defendant?

Mr. Lamb: There is a suit pending in Toledo on somewhat different issues and for certain specified employees only.

Mr. Boos: If the court please, I have here a certified copy from the Court of Common Pleas of Lucas County, Ohio, of a suit brought by 12 employees of the Mt. Clemens Pottery Company, including the witness, as plaintiffs, against the defendant, Mt. Clemens Pottery Company, of Mt. Clemens, Michigan, in which Edward Lamb is the attorney for the plaintiffs, and attached to which is an affidavit and attachment to obtain an order of garnishment against the defendant, S. S. Kresge Company.

Suit was started on December 5, and the affidavit made by Mr. Lamb, in which he represents that he represents these plaintiffs, was made on December 5, 1941.

The Master: Is that on behalf of 12 named plaintiffs, or does it include the Union, United Pottery Workers?

Mr. Boos: It does not include the union. It includes 12 named plaintiffs, Eric Sopha, Alice Stoll, Esther Klein, Andrew Hirsner, Mary Corby, Hiram Stroup, Virginia Weier, Carl Starner, Robert Fitton, Helen Stade, Arthur Dobberowsky, and Norman Engelbrecht, and the case number is 159,790. The ad damnum was $40,000, for work and labor. * * *

Q. And if the batter-out and jigger man and finisher were all there at 10 minutes to 6:00, they could go to work?

A. If they were all there, that would be possible. * * *

Q. Now, as I understand it, just to clarify this point which I am not familiar about, you say that you never signed an authorization in an action which was filed down in Toledo in which you appear as one of the parties plaintiff?

A. That is right. I never signed any.

Q. You didn't sign it. So that if there is any signature purporting to be yours, you deny that you signed it?

Q. I will check that. As I understand it, too, you said that you didn't punch a time clock; is that correct?

A. That is correct.

Q. You say you usually plan to be there at 20 minutes to 6:00. Do you come down through the place marked,—past the place that is marked time clock B, or the place marked time clock A?

A. Down by time clock A. * * *

Q. Have you ever timed yourself to find out how long it takes you to go from the time clock to your department?

A. I have not actually timed myself, but just from personal knowledge, I have watched that thing, traversed it for 16 years, and it is practically indelibly marked in my mind about how long it would take me.

The Master: Can you state as to what kind of a gait the employees generally use in walking from the time clock to the department, as to whether they walk with a regular gait or amble along, or walk along slowly?

A. They walk slowly, walking out you have to practically hold them down to keep them from running.

The Master: So that the time elapsed in getting out is probably considerably less than the time getting in?

A. The time elapsed getting out is considerably less than the time getting in; they walk slow coming in and we have to pretty near hold them back so they don't hurt one another or get hurt running out.

The Master: Is that true of coming back from lunch, do they come in slowly and at night leave very rapidly?

A. That is true. * * *

Q. Well, now, how far is it from the clay shop to the time clock A, for instance?

A. Well, there are various places in the clay shop, the furthest end would be between eight and nine hundred feet, I would say, in the clay shop.

Q. And the closest?

A. Probably around between 350 and 400, I am not definite.

Q. You say it takes you how long to walk 400 feet?

A. Well, I would say it takes me to get to where I go, which is about the middle, about 6 minutes.

Q. It takes you 6 minutes to walk 400 feet?

A. Yes, walking, taking my time.

Q. I will say you are taking your time. That is all.

Re-Direct Examination

By Mr. Nunneley:

Q. Mr. Fitton, from the place where you are stationed in the clay shop, you are back there at 20 minutes to 6:00, can you see the time clock?

A. No, sir, positively not.

Q. So that your testimony and your knowledge is based on when they get back there and not when they hit the clock, is that correct?

A. My testimony is based when they arrive in the department.

Q. And you can't see them punch the clock or know what time they punched in?

A. No, sir. • • •

Q. You do know what time the employees get there, don't you?

A. I do know that.

Q. And what time they get back into that department?

A. That is right.

The Master: How do you know that?

A. Why, I carry a wrist watch all the time. • • •

Q. (By Mr. Nunneley) Now, Mr. Fitton, in the clay shop here are these various machines and mangles and things setting around in there?

A. There are machines, yes.

Q. Can you pass around among them to see what the people are doing?

A. Yes, you can.

Q. And so that there are passage ways that can be used other than the aisles?

A. There are passage ways other than the regular aisles, yes.

Q. For carrying his ware, or his material carried around to the machines?

A. That is right, there is a passage way between every machine.

Q. Mr. Fitton, did you ever authorize anybody to start a suit against the Mt. Clemens Pottery Company in Toledo?

A. No, sir.

Q. Or to make any affidavits on your behalf in that connection?

A. No, sir. * * *

Q. (By Mr. Nunneley) By the way, are there any other Robert Fittons employed at the Mt. Clemens Pottery?

A. No, sir.

Q. Have there ever been any in the last 10 years that you know of?

A. No, sir, not to my knowledge.

Mr. Nunneley: Take the witness.

Cross Examination

By Mr. Boos:

Q. Did you ever authorize any lawyer in Toledo on your behalf to start suit and garnishee the S. S. Kresge Company for $40,000?

A. No, sir.

Q. Did you ever authorize any lawyer in writing or otherwise—

A. No, sir.

Q. (Continuing) —to bring any suit for you in Toledo against anybody?

A. No, sir.

Re-Cross Examination

By Mr. Lamb:

Q. Do you say that you are represented in this suit?

A. I stated I wasn't sure what suit; I understood I was represented in a suit against the S. S. Kresge Company.

Q. You understood that from Mr. Doll?

A. That is right, in a suit.

Q. But you don't claim that you are represented in this action pending in this Federal Court, do you?

A. I claim my knowledge is very vague on which suit.

Q. It seems to be. Now, you said that you could tell what time the employees arrived there because you had a wrist watch?

A. That is right.

Q. Will you tell us, is Earl Trombley an employee in the clay shop?

A. No, sir.

Q. Who are some of the employees in the clay shop?

A. Earl Larrimer is an employee.

Q. Earl Larrimer?

A. Earl Larrimer is an employee, yes, or was.

Q. Will you tell us what time Mr. Earl Larrimer worked and arrived at work and started at work in the clay shop on January 7, 1940? * * *

A. No, all I could imply is the average starting of the employee.

Q. I am asking you whether you mean to advise the Master that you are able to tell him what time a particular employee started to work any particular day?

The Master: Just answer it yes or no.

A. I can't, no. * * *

Re-Direct Examination

By Mr. Nunneley:

Q. Do you know whether Earl Larrimer started to work regularly before the starting time?

A. No, I can't say as any employee ever worked regu-

larly before the starting time. They vary. Sometimes they come in later, sometimes—they just vary as the time goes on.

Q. You don't know what time they punch their clock, to the minute, do you?

A. No, I do not.

Q. And you do know approximately what time they arrived at your department?

A. That is right.

Q. And as to any individual employee in the department, can you say that any of them regularly worked before the starting time?

A. No, I can't say that they did.

The Master: Can you say that they didn't, that nobody in the department did?

A. I can't say that nobody in the department did regularly start before the starting time. Was that the question?

Mr. Nunneley: That was the question.

The Master: Some of them may have started regularly before the starting time, in other words?

A. I can't say as they did.

The Master: Is it possible from your recollection that some of them—is it consistent with your recollection that some of the employees in the department could have started regularly to work prior to 6 o'clock?

A. No, they couldn't. No one person nor one group could consistently start early.

The Master: Why?

A. Variable conditions. Their crew would not all be there all the time at the same time. That would be, I would say, an impossibility.

The Master: You stated that you would go around at 20 minutes after 6:00, start around at 6:00 until about 20 minutes after 6:00, some of the employees in the department still would not have started their production work?

A. They would just nicely be getting under way, yes, sir.

The Master: Suppose at a quarter after 6:00 you came

across one group of batter-out, jigger man and finisher who hadn't started their work at that time, would you say anything to them?

A. No, sir.

The Master: Wouldn't you tell them they were late getting started?

A. No. I might inquire what their reason was or if there was some trouble, and if there was no trouble I went on by and let them get started.

The Master: Why would it take them till quarter after 6:00 to get started?

A. That I couldn't state.

The Master: As I understand it, it was a common, every-day occurrence that some of the crew wouldn't get started until quarter after 6:00, because you said until 20 after 6:00 the whole group would not be working. Now, from your observation of the department, can't you state what could or what would cause the particular crew not to be able to start until 6:15?

A. Oh, yes, the lateness of one of the crew arriving on the job.

The Master: Is that the only reason?

A. That would be the biggest reason.

The Master: Would there be any reason that pertained to the work on the job, getting ready?

A. No, sir, there is not much to get ready. It is all got ready for them.

Mr. Lamb.: If the lateness of one—

A. (Interrupting) The lateness of one of the crew arriving. Probably stopped in to talk to somebody. The lateness of one of the crew would detain the whole crew.

Mr. Lamb: Wouldn't this lateness be indicated by the time card?

A. It would.

The Master: You would not say anything to any crew that started at 6:15, even though you knew one of the crew was late coming in?

A. I might mention to him that he should get up a little earlier so as not to keep the rest of the crew back.

The Master: Wouldn't the rest of the crew be complaining to you about the situation?

A. They usually took care of that between themselves pretty well.

Q. (By Mr. Nunneley, continuing) On the way from the time clock department there is nothing to stop them visiting with each other, or others along the way, is there?

A. No, and invariably they did. In the morning you would see them grouped together, three or four, and talk over—whatever they were talking over I wouldn't know—but there was nothing to prevent them from visiting, which invariably they did.

Q. Was that a common practice when they come to work?

A. Oh, a very common practice to see them grouped three and four in a bunch talking.

Q. Did they speak to each other and talk to each other as they come in while they are getting ready to work?

A. That is right; stop by the bench and talk over something they noticed, or had something to talk about.

Q. How are they paid in that department?

A. They are paid on a—you mean what basis?

Q. Yes.

A. They are paid on a piecework basis.

The Court: Was that based on the individual,—what they turned out?

A. That is based on the group.

The Master: On the group, meaning—

A. (Interrupting) The three together would actually take care of the earnings of the group together. The piecework was so much for the one, so much for the other, and so much for the other. So much for the total operation.

Q. (By Mr. Nunneley) Did everybody in that department work on a piecework basis?

A. Everybody except the sweeper.

Q. And that piecework, you say, is in the case of the batter-out, jigger man and finisher, that is based on what the three of them produce?

A. That is based on what the three of them turn out.

Q. And in the case of those who worked on the machines, how is that based?

A. That is also based on what the machine turns out. Piecework basis excepting the operator, which is an hourly rate.

Q. The operator himself is hourly?

A. The operator and the man in front are hourly rate, and the girls are based on a piecework basis.

Q. Mr. Fitton, what can you say to the time they stopped work in the afternoon?

A. Well, that would range—if, now, you take on a piecework basis, and I will try to outline this to you how they stopped. They are paid by the board—

Mr. Lamb (interposing) Just a second. • • •

Mr. Nunneley: Do you recall the question now?

A. Yes, I recall the question. The answer was going to be that they are paid on so much per board or so much per hundred boards. Now, we will say that they came to 20 after 2:00. They had not done—they had not time enough to make one more board, so they would leave it. There is a possibility of it getting destroyed, or some other person taking it coming on the next shift, so they do not make another board. They quit, clean up and go out, and you see them going out anywhere from 20 after until 2:30, depending on how their boards would vary, run. They never make it over, and make it for the next crew to take.

Q. In other words, they can leave the department before 2:30, for instance?

A. Yes, they can leave the department any time they have their quota. In their 8 hours there is a certain production that they can turn out. Once they get that pro-

duction they can leave. If they get it a 1 o'clock or 2 o'clock they can leave when they have their production.

Q. Are they permitted to work after quitting time?

A. No, sir.

Mr. Nunneley: Take the witness.

The Master: Mr. Fitton, as to the instructions that you gave the employees working under your direction in the department as to the time they were to report in the morning, did you tell them that they were supposed to report at such time that they would get in the department at their particular job by 6 o'clock.

A. No, sir. Whenever they would ask I would always say, now, be on the job by 6 o'clock. I never gave them any specific time to ring in, only that they should be there by 6 to get started. It was immaterial to me when they rang in.

The Master: When you told them that they should be on the job by six, what did you mean by "on the job"?

A. At their job ready to go to work at 6 o'clock.

The Master: Did you ever tell any of them that they should be in front of the time clock at 14 minutes to 6:00?

A. No, sir.

Re-Cross Examination

By Mr. Lamb:

Q. I don't think I understood your testimony, Mr. Fitton, when you said in response to a question by Mr. Nunneley that occasionally people stopped and visited on the way—

A. (Interrupting) That is right.

Q. (Continuing) —between the time clock and the job?

A. There was nothing to prevent them from visiting on the way in.

Q. You said, as I understood it, you have seen people stop?

A. I have.

Q. And was that a frequent occurrence?

A. That is very frequent, yes.

Q. And you also said, in response to a question by the Special Master, that it wasn't necessary for you to mention the fact that they were being late—

A. That is correct.

Q. (Continuing) —because the other people in the group would take care of it, is that correct?

A. That is right, on the piecework basis.

Q. You meant by taking care of it, they would raise such a rumpus that not one of them would be dallying at the expense of the others, is that true?

A. Yes, that is correct. • • •

CARL L. STARNER, was thereupon called as a witness on behalf of the defendants, and having been first duly sworn, testified as follows: • • •

Direct Examination

By Mr. Nunneley:

Q. Where do you live, Mr. Starner?

A. On Kendrick Avenue in Mt. Clemens.

Q. And how long have you lived in Mt. Clemens?

A. Since May, 1923.

Q. And where are you employed?

A. Mt. Clemens Pottery.

Q. How long have you been employed there?

A. I started there in May, 1923.

Q. What kind of work have you done during this period?

A. Well, I have worked around through the plant, to start with, and then I worked in the clay shop as batter-

out and jigger man. Then I was made foreman in that department.

Q. And you have been a foreman in the department how long?

A. I guess it will be on 18 years.

Q. Around 18 years?

A. That is right.

Q. Did you yourself ever work in any other pottery?

A. No, I haven't actually worked in any other pottery.

Q. Have you had occasion to learn something about the practices in other potteries?

A. Well, I have a brother-in-law and a sister working in a pottery, before I worked in the pottery, and I have been around there quite a bit with them and was quite familiar with the pottery operations. And the practices which they had.

Q. Where is the pottery that they work in, your brother-in-law and sister?

A. In Ohio.

Q. What town?

A. New Lexington, Ohio. * * *

Q. (By Mr. Nunneley) What kind of ware did they make where your brother-in-law and sister worked?

A. They made dinner ware there at this pottery.

Q. A similar type of ware that is made at Mt. Clemens?

A. Yes, except they make porcelain. We make semi-porcelain ware.

Q. Now, Mr. Starner, what is done in the clay shop at the Mt. Clemens Pottery?

A. You say what have I done?

Q. I say, what is done in there? What was done?

A. What are the operations? Well, all the ware that is made is formed in the clay shop, in the clay state, and then it is dried there in the clay state before it is sent to the kilns to be fired. All the forming of the ware is done in the clay shop.

Q. Now, Mr. Starner, in asking you questions and

making your replies I wish you would bear in mind that all questions, unless otherwise specifically stated, will refer to the period before April 14, 1941, at the time of the first strike and before the starting of this suit. I just make that statement in order to have it clear and in order not to have to state it all the time.

Now, Mr. Starner, you were foreman in the clay shop during the period for several years prior to April 14, 1941, were you not?

A. That is right, sir.

Q. And do you recall, were there foremen's meetings held at the pottery which were attended by the foremen?

A. Yes, sir, we held meetings there regularly every Tuesday, and meetings in between.

Q. Who, generally, took charge of or presided at those meetings?

A. The general-manager, Mr. Doll.

Q. At those meetings did you have any occasion to discuss any law relative to hours that could be worked by the employees?

A. We certainly did. * * *

Q. (By Mr. Nunneley) And what, if any, directions or instructions were given you relative to the law about the amount of time that could be worked?

A. Previous to the law that was in effect, that took effect in 1938, we were told to keep the employees' hours under 44 hours. And then previous to the time in 1939 when the law was to take effect that they were not to work over 42 hours except for extra pay, why, we were told to prepare our departments to be in accord with that law, which we did ahead of time. And, likewise, when the law was changed to 40 hours, we were instructed to make our departments ready to comply with that rule that we were not to exceed 40 hours a week.

Q. Were those instructions obeyed?

(Objection overruled.) * * *

A. We called our people together in the departments and instructed them that they were not to ring or work

over 40 hours a week, and we told them what time to start in the morning and the time their hours would be up, the time their lunch period would be, and they were not to exceed that time. Any under that time, why, we agreed to it, it was all right, but they absolutely could not go over 40 hours.

The Master: Did you say "we called the people together in our departments"?

A. We called the people of the departments together and instructed them in a general way.

The Master: That is your department?

A. In our department. And then we practiced telling them individually. There would be questions asked, or we thought someone was in mind of breaking those rules, why, we would instruct them accordingly individually. That seemed to be necessary at the start, that is, prior to the time the law took effect. We started this along in August.

Q. (By Mr. Nunneley) Mr. Starner, during that—can you tell us how many hours your department was working before the law took effect at all?

Mr. Lamb: Objection.

Q. Just immediately before?

Mr. Lamb: Objection.

The Master: I think I will take his answer.

Mr. Lamb: It is entirely immaterial.

A. We complied with the law before the law actually took effect, your Honor. When the law was put into effect, Mr. Doll made the statement that seeing that that was the sense of opinion of the public and the country, why, he was in accord with it and wanted us to immediately make arrangements for that. So we actually practiced that rule, so it was actually in effect, so it didn't affect us, really, when it came along. We had been set for it and had been practicing it. * * *

Q. (By Mr. Nunneley) Now, Mr. Starner, in your clay shop during the period before the first strike, how many shifts were there?

A. In the clay shop, there were two shifts.

Q. And what were the hours of those shifts?

A. Worked 8 hours each shift. The first shift starting at 6 o'clock in the morning and quitting at 2:30 in the afternoon; the second shift starting at 2:45 and quitting at 11 o'clock in the evening.

Q. And was there a lunch period?

A. One-half hour lunch period in each shift.

Q. What time did you come to work there during that period?

A. I always was there shortly after 6:30 in the morning, somewhere between there and 20 minutes to.

Q. 6:30?

A. Shortly after 6:30.

Q. Were you there after starting time?

A. I mean 5:30 in the morning. Pardon me.

Q. Did you sometimes have supervision of the afternoon shift?

A. Yes.

Q. Or did you always have the morning shift?

A. No, we had both shifts. I have worked on both shifts.

Q. And what time would you report to work yourself if you were on the afternoon shift?

A. I always came in around 1:30 or before.

Q. Now, Mr. Starner, what would there be for you to do in the morning before the shift started?

A. Well, I always liked to get there early because we had one or two fellows there to put clay on the benches for the fellows to work with, and if that clay wasn't on the benches ahead of time, he couldn't possibly get around to all of them in a minute. So, I always was in there early to make sure everything was ready so that the people coming in at 6 o'clock could start to work at the regular time. So I was always in there and checked over to see that everything was all right before they came in.

Q. In other words, among other things you saw to it that the prepared clay was at the stations?

A. That is right.

Q. Where the batter-out and jigger men worked, in order that they could start, is that right?

A. That is exactly right. And they had electric dies they used in operating the machines, and we had to see that they were turned on and made hot, steam. Quite a few things we wanted to check over before the people came in.

Q. Were those dies turned on before the people came to start to work?

A. Yes, sir.

Q. And they heated the clay? They are hot when they come down on the clay? That is the thing the batter-out uses?

A. That is right. He has to heat the dies in order to flatten the clay out the way it is supposed to be, and it takes time to get those things hot.

Q. You saw to it that those were turned on and the clay applied?

A. That is right.

Q. What, if anything, did you have to do with the people working, as to starting to work or seeing that they were working? What did you have to do with that?

A. Well, I over-saw the fact whether they were there at work or whether they got ready to work. If there were some missing, we would have to fill in here and there to make sure that they were grouped up as they would have to be in order to be able to work. They worked in groups, in groups of 3, so we had to have a complete crew there so we could get them started.

Q. What time would you say that the people in general in your department got started to work?

Mr. Lamb: Objection.

Q. On the 6 o'clock shift?

The Master: I will take his answer.

A. Well, they were all working piece rate, and probably, to explain it this way, on the average the people would actually get started a little bit after 6 o'clock.

The Master: When you say "actually get started," do you mean started on the production work?

A. That is right.

The Master: They had certain preliminary work to do?

A. Yes.

The Master: In changing uniforms, and so forth?

A. That is right.

The Master: You don't include that as time started?

A. No. Sometimes they might not take as much time with their preliminaries as they would other times, so really I was observing more or less the time they actually started production.

Q. (By Mr. Nunnéley) And what would be the preliminary the Court asked you about? What would they consist of?

A. Well, these people grouped together in such a way that they would be quite close together, and there would be quite a lot of, oh, jabbering around, and they would take off their shirts and get ready to work for the day, and have to sharpen their scrapping tools if they did not have them sharpened before they came in. Those things that had to be filed and bent just in a certain way in order to scrap the surplus clay off the forms when a piece of ware was put on there, and really there wasn't much preparation to it. It was just a matter of making up their mind to go to work. It seemed like they always—

Mr. Lamb (Interposing): Objection, what it seemed like to him. • • •

The Master: Just tell what happened.

A. It is quite customary for folks to congregate more or less there in the aisleway or between the jiggers and converee one with another. There are quite a few of them are hunters and fishermen, and they like to tell about the fish they caught.

Mr. Lamb: Objection unless he identifies who was doing this. There isn't any point having him give a self-serving declaration of this sort.

The Master: Well, I think if this has been his obser-

vation I think he can give general testimony and you can explore it on cross-examination if you want to find the specific persons that he overheard.

A. The people would be talkative, and being friendly with them I would be there entering into their conversation right there in the midst of them. And it wasn't never,—didn't ever tell anybody that they—bawl them out or any such thing as that for not starting right on the minute, because they were all working piece rate and as long as they were monkeying around getting ready to start work we just left it go like that. * * *

Of course, there is a certain amount of time taken up by visiting back and forth, of which we never objected to, after arriving in the department. And then, of course, there is changing uniforms. Then there is those individual tools which they use. The jigger man has a scraper that he is permitted to sharpen in the department if he wants to and bend it so that it will be ready for use. The batter-out, he has what we call a block scraper that he uses to scrape the block with, and he usually scrapes the block some before he starts to work. Just a matter of a minute or so.

Of course, they take their time in getting ready to start work. A fellow comes in and he has got so much to say, then he wants to stretch awhile and yawn—

Mr. Lamb (Interposing): Just a second. I think he should discuss—

The Master (Interposing): Just state what you observed there, not what they want to do. Do they stretch and yawn? If you can say that, say that.

A. Nearly every morning you hear somebody say, "Well, I don't want to work today," and he stretches out. "Shall we go fishing?" or something like that. Every morning you hear it. They do it just for fun, of course, but that is actually the case. He was asking me to describe it, your Honor.

Mr. Nunneley: That is right.

The Master: Yes. Just describe it as it happens.

Mr. Nunneley: Go ahead and tell us.

A. Of course, we never objected to the fellow, if he doesn't get ready on time, because it is actually piecework and if he doesn't get started on time, he loses. If we are behind on production and if it is too long, we might say, "We are a little short on production; we would like to have you get started, if you can. If you are not ready to work, we will see what we can do to correct any condition that is wrong." That is about the best way I could describe it. * * *

The Master: According to your best recollection, what time on the average would the first employee start to come into the department?

A. Well, usually, as near as I could recall, I didn't actually just check by my clock, by the clock or my watch, but as nearly as I can guess it would be around 10 minutes to before anybody would come in there, then they would come stringing in, maybe one, maybe two, one or two more, and then some more; they wouldn't all come in at the same time.

The Master: By ten minutes to six you had generally completed your work making the routine check around the departments to see that the supplies were on hand and everything was ready for the day's work, by ten minutes to six you completed that generally?

A. Well, I would have that completed even before that; I would be there by the benches where the people work even before that, possibly quarter-to.

The Master: When the employees started to come in, what were your duties from then to six o'clock?

A. To see if they were all there and ready to run all the jobs, had enough people to run them, and get them started, because the people work in groups and if some member of some group wouldn't be there, naturally the first thing we would do would be right there to pair up them with some other group.

The Master: How long would you wait before you would do that?

A. We wouldn't wait only long enough to find out if certain ones were not there, were not going to be there.

The Master: Would that be at five minutes to six, if one group wasn't complete at five minutes to six, would you go out and get somebody else to take the place of the missing one?

A. No, we would look around through the department and see if anyone else was missing, and sometimes there would be an entire crew missing, and you would take crews to make up a crew; for instance, a finisher may be missing on one crew and a batter-out on another, and jigger man on another, so you would put the ones that didn't have a helper all together.

The Master: Was any whistle or any other signal blown at 6 o'clock?

A. Well—no, we didn't have a whistle blowing at 6 o'clock.

The Master: How did the employees know when the time had come when they would start work, if they were supposed to start production work at 6:00?

A. Well, we had several clocks around through the department, and nearly everyone's bench had a watch or clock on it of some kind, and never needed to worry about the time because it was always more or less before you there.

The Master: Was there any particular time, say 10 minutes to 6:00, five minutes to 6:00, 6 o'clock, or five minutes after 6:00, or a quarter after 6:00, that you regularly looked around the department each day to see whether or not everybody had started work?

A. Well, that would be my duties from the time—

The Master (Interposing): Was it your duty to look around, or did you look around at any fixed time every day, or did you simply look around generally from the time you completed your check at about a quarter to six, or for the next half-hour?

A. Why, from the time the people start coming in there we just notice up and down the line to see whether the

jobs would get filled up, and I could see most of them there as they came in, and seldom run around through the department to pair them up until after the starting time. I would at least wait until six o'clock before doing that because somebody might be—even after six o'clock—coming in, unless they told me definitely. A jigger man may come in and say I have heard my batter-out isn't coming today, or maybe somebody would tell you, well, there may be three or four different boys missing in the department, and you would try to figure out how to put these people together so that they could go ahead and go to work. But, quite often after six o'clock, when you had to get replacements, it would be that time before you got started.

The Master: Did you go around, say, at 6 o'clock sharp, start making a routine trip to all the work places in the department to see if everybody was there, or did you simply—was that flexible? Did you simply go around, walk around the department for, say, 15 or 20 minutes beginning at 10 minutes to six, and wherever you observed anybody absent I suppose you dealt with it just as it came up?

A. That is actually about the way it works, because in general you couldn't wait there until a specified time. I tried to keep in touch with the whole situation from the time they start coming in until they were all going.

The Master: You did not simply keep looking at your watch?

A. Did not follow any certain routine on watching my watch, or looking at the clock, or anything of that kind. Just keep in touch with the whole situation and make any replacements as they became necessary at that particular time.

The Master: I will just ask the question directly, you didn't, then, at 6 o'clock sharp—

A. No.

The Master (Continuing)—go around the department and make a routine trip to see whether everybody was at work at that time?

A. Not at six o'clock sharp; no.

The Master: Go ahead.

Q. (By Mr. Nunneley) As I understand, then, you were there when people began coming in. If somebody came in and told you their batter-out wouldn't be there you would start in and try to figure out where to get another one?

A. Yes. You have to figure out who to get. You can't put anybody with anybody. They have to be paired up according to their experience and ability, and sometimes it is pretty difficult to figure them out.

Q. The same would be true if someone would come in and say, "My finisher isn't coming today," you would have to find them another finisher?

A. That is right.

Q. Now, if no word was brought about—in other words, if no word was brought that somebody was going to be late, or wasn't coming, nobody told you that, how long would you wait before you would endeavor to mark them absent or replace them?

A. Well, we would wait an indefinite period. We would always wait until after 6 o'clock before we would even think they weren't coming, because quite often they would come in five minutes late, 10 minutes late, and then we would begin to think about it pretty serious. If they were 10 or 15 minutes late, then we would start to figure out how we could pair them up. If we hadn't heard from them at all even that late, quite often they would come in. People will be a little reluctant to pair up because they will say, "Oh, my batter-up is just sleeping in this morning and he will be here ultimately," and you kind of rather wait for him, even waiting as much as a half-hour rather than start work with somebody else.

Q. About how many employees were in your department that you had to check up on?

A. Around a hundred.

Q. That is just your part of the department, is that correct?

A. That is right, yes.

Q. During the period between the time folks might get into the department, and the time they actually started, did they have occasion to confer with you on any matters, any of them? * * *

A. Yes. Anything like that at all, they are always free to come and talk it over at any time, even before starting.

Q. If you were advised that people were not going to be there and you didn't do anything about it until after six o'clock, what would be the effect of getting production out, getting production started in the department?

A. It would interfere with production if we didn't get started on time, because we still allow them to ring out of the department at the regular time, because where there would be one missing, the other two would be there, and you couldn't stretch the hours out, because it would run the two over. * * *

Q. (By Mr. Nunneley) Did the employees generally in your department start work before the established starting time—

Mr. Lamb: Objection.

Q. —of six o'clock? * * *

Mr. Lamb: That assumes the very question that is in issue, one of the questions in issue about the established starting time. I think the question re-worded, or at least simply stated that 6 o'clock—I certainly insist that the established starting time is one of the issues in this case.

The Master: I will take the answer subject to the objection. Will you answer it now?

A. The people didn't generally start before 6 o'clock. The people all wouldn't be there until just about 6 o'clock, because it would take several minutes for the amount of people to ring in that was coming through this particular time clock, and while there might have been—it might have been so, or it was so and is so, that people get there as much as—probably as early as ten minutes to, but they are few, they string out from that time up to the starting time of 6 o'clock, and we never insisted on them starting before 6 o'clock. In fact, we insisted that they didn't start before 6 o'clock, start to work. We didn't care

if they rang in 14 minutes to. We told them to ring in in time to be there at 6 o'clock; that was the general rule, and we made that very plain to every individual in the department. * * *

Q. (By Mr. Nunneley) Mr. Starner, what would be the established time for the start of the lunch period when the starting time in the morning was 6 o'clock?

Mr. Lamb: I object to the question on the ground that there isn't any evidence of an established quitting time. * * *

A. The lunch period always was 10:30, when the starting time was 6.

Q. (By Mr. Nunneley) And did the people generally work after 10:30 before stopping for lunch?

Mr. Lamb: Objection.

The Master: I will take his answer.

A. No, the people didn't work after 10:30, in fact they would quit often—well, they would be ready to go right at 10:30.

Q. And what would be the—

The Master: Did you keep tab on that? How do you know they were quitting at 10:30?

A. I have seen them, I have stopped and watched them time and time again. They would leave the department at 10:30. They all seemed to be very anxious to get out to dinner.

Mr. Lamb: Objection, what seems to be.

The Master: Yes, I will strike that last statement. You can just tell what you observed, and not what your conclusion is as to what seemed to you to be the case.

A. People always left the department at 10:30; all of them.

The Master: Was there any whistle blowing at 10:30?

A. There was times when we blew a whistle at 10:30.

The Master: During this period of 1938 to 1941?

A. Yes, sir. * * *

Q. (By Mr. Nunneley) And, when the lunch period started at 10:30, what time would it be time to start back to work after lunch, ordinarily?

A. The time to start back to work was 11 o'clock.

Q. Would the people generally get there and start to work before 11 o'clock, or at 11?

A. No, they were pretty slow to get back into the department at noon time. * * *

Q. (By Mr. Nunneley) And, when the starting time after lunch was 11 o'clock, what would be the end of the work day for that shift?

A. 2:30 in the afternoon. That is a specified time.

Q. Would the people generally work after 2:30?

A. No. No one worked after 2:30. They quit—they would be more apt to quit before 2:30 because they would come to the—

Mr. Lamb: I ask that that answer be stricken, that they are more apt to. * * *

The Master: I will first hear his answer, and then entertain a motion to strike.

A. They didn't like to leave any parts of boards of ware for the next two. They would like to come out even. And, it takes a few minutes to make a board of ware. And, if they figured they didn't have time enough to have a board of ware finished by 2:30 they would stop, anyhow.

The Master: Suppose they got up to 2:30 and they were in the middle of a board of ware, would they go on and finish it?

A. No, we never permitted them to work after 2:30.

The Master: What stopped them after 2:30?

A. We just simply objected to them working after 2:30.

The Master: Did you make it a regular rule of the department—

A. Yes, we did.

The Master: —to see they were not working?

A. We certainly did.

The Master: What time did the next shift come on?

A. 2:45.

The Master: There was a 15-minute interval, then?

A. That is right.

The Master: Couldn't they work on finishing up their boards for 5 or 10 minutes before the new shift started streaming in?

A. They didn't like—the shift coming in didn't like the folks interfering with them. They liked to have them out of there before they started coming in on the job. They didn't want to interfere with each other.

The Master: Do I understand you every day went around at 2:30 sharp to see everybody was putting up their work, even though they had but a little work to finish on their boards?

A. Well, I wouldn't say every day I did that, but it was the practice to see the folks got out at 2:30 and it might be that I might have checked it very carefully for several days, and there might be a day or two I might not have been there just at 2:30, but I was always there to see they were going out, because I was right in the department at all times.

The Master: Was that your responsibility?

A. Yes, sir.

Q. (By Mr. Nunneley) And this afternoon shift, their starting time, you said, I believe, was 2:45?

A. That is right.

Q. So that during that 15-minute period, the two crews, one crew would be coming in and one crew going out, is that right?

A. That is right.

Q. All going to the same clock?

A. Yes, they all rang out at the same clock.

Q. Have you worked the afternoon shift during this period, Mr. Starner?

A. I have, sir.

Q. Do you always have one shift, or do you alternate, the foremen alternate?

A. We alternate the shift. We don't always have the same shift. We alternate most of the time a week about.

Q. One week mornings and one week afternoons?

A. That is right, yes.

Q. And during this period, then, approximately half of the time you would have the afternoon shift?

A. That is right.

Q. Now, when the established starting time was 2:45, what time did the people generally start to work?

Mr. Lamb: Objection, unless the people that are referred to are identified.

The Master: Well, I will take his testimony. It is on the general conditions here.

A. The people wouldn't start before 2:45.

Mr. Lamb: I ask that be strisken.

The Master: In each case where you are asked as to what time they started to work, and you give your answer, you mean production work?

A. Yes, that is what I was referring to.

The Master: You are not talking about, now, any work they may have done, that is, any work getting ready to do production work?

A. No.

The Master: You don't consider that to be work?

A. No, because you can't tell.

The Master: I just wanted to know about your testimony.

Q. (By Mr. Nunneley) Now, when the starting time of the shift was 2:45, was there a lunch period involved?

A. Yes, sir.

Q. And what time would that come?

A. It would come at 7 o'clock.

Q. 7 o'clock?

A. That is right. 7 to 7:30.

Q. From 7 to 7:30. And would the people, when that lunch period come, generally work after 7 o'clock?

A. No, sir.

Q. And what time would you say the starting time was after the lunch for the afternoon shift?

A. They wouldn't start before 7:30.

Q. I say what time would be the regular starting time or established starting time? • • •

A. Established starting time after the lunch period was 7:30.

Q. (By Mr. Nunneley) Would the people generally start to work before that time?

A. No, the people would not generally work before that time.

The Master: In each case, you have said repeatedly that the employees generally don't start to work before the established starting time, or would not stay after the established quitting time. Were there a number of exceptions to that general rule?

A. At lunch time the people always seemed to be ready, always was ready to go out for their meal.

Mr. Lamb: Just a second, please. That obviously is improper. He said, "Always people seemed to."

The Master: I want to find out what they did.

Mr. Lamb: He said they seemed to do things.

Mr. Nunneley: The witness is talking from his own observation of many years.

The Master: I would like to ask him these questions or I can't find out what happened. I can't guess myself as to what happened. The witness may be wrong in his recollection, but if I ask enough witnesses, I may find out what is wrong.

The Witness: Your Honor, the "seem" part, what I really mean to imply is they all seemed to be hungry at lunch time, and leave the department right on the minute.

The Master: What about coming back?

A. Coming back, they only had a half hour for lunch and they are never anxious to get back to the department, so they never start until after 7:30.

The Master: What about in the morning? Are they more likely to start before time in the morning than after lunch, do you mean?

A. No, not in the morning either.

The Master: Have you observed employees starting before the time that you considered they were supposed to start?

A. I haven't observed anybody starting ahead of time.

The Master: You never have in all your experience there?

A. You mean in the morning or lunch time?

The Master: Yes. In the morning or when they came back from lunch. Well, we will limit it in the period from 1938 on. Have you observed anybody at any time starting before the established time?

A. We would never object to a minute or a small amount of time like that. If they started, say, was ready to go ahead a minute before, we wouldn't object to that.

The Master: Have you observed some of them start a minute before?

A. You look up and down the line. You don't stand there with a stop watch. You know it is around 6 o'clock, to see whether they were all ready to start. You wouldn't notice anybody starting quite a bit ahead of time.

The Master: What do you mean by "quite a bit ahead of time."

A. Four or five minutes, something like that.

The Master: Take 5 minutes to 6. Have you ever seen anybody start at 5 minutes to 6?

A. No, I can't say I have.

The Master: Are you sure about that?

A. I am sure about that. As near as my memory goes at the time.

Mr. Lamb: What is the answer?

The Master: He says he is sure about it as far as his memory goes.

Mr. Lamb: Then your assistant foremen better check notes.

A. Well, it is pretty hard to be sure every day whether they would be five minutes or six minutes or 3 minutes or 4 minutes. We didn't really check it that close. But they couldn't hardly get started much sooner than that. They couldn't hardly get lined up. I don't see how they could do it.

Mr. Nunneley: What was the last question I asked him?

The Master: You asked him about the time they were

coming in back from lunch and I believed he answered that.

Q. (By Mr. Nunneley) And the quitting time for the afternoon shift, the established quitting time, was that?

A. Was 11 o'clock.

Q. Did the employees generally work after 11 o'clock?

Mr. Lamb: Objection.

The Master: Overruled.

A. No, they did not.

Mr. Lamb: I ask that the answer be stricken.

The Master: I will let it stand.

Q. (By Mr. Nunneley) Did you ever see any of them quit before the established quitting time, either on the morning or afternoon shift?

A. Yes, I have noticed them quit before.

Q. Did that happen on as many occasions as they might start a minute or two ahead of time in the morning?

A. I would say as many. A lot of times they would quit as much as 10 minutes before quitting time.

Q. I think possibly we have covered this matter, but what work was there for these crews to do in getting ready before production work actually started? What was there to do that they had to do?

A. Well, the jigger men would have, as I said—you mean, as before, change their uniform and put on their aprons, get their scrappers ready to work, to start to work; the batter out would have the block to look after; he takes his sponge, wipes it off, takes a scraper and scrapes it a little bit, before they get ready to start the mangle to produce ware.

Q. And those operations might take how long for either one of those people?

A. Well, it would take anywhere from, as near as I could guess, it would be from one to three minutes.

Q. And these scrapers or scrappers, as you call them, they are their own tools which every jigger man has?

A. That is right, their own individual tools.

Q. And the same applies to the tool that the batter out uses?

A. That is right; they have in the potteries supplies scrapers which they purchase themselves, and in some instances the company has furnished those scrapers to them, given them to them.

The Master: When they get through at noon what is there for them to do after they have stopped the production work, before they can leave the department?

A. Get through at noon before they leave the department, there isn't anything they really have to do, just shut off their machines.

The Master: Don't they change their uniforms?

A. And change their clothes, their uniforms, that is all. They don't have to—

The Master: Do they have to put up their tools, hang them up?

A. Well, they just take care of their tools, that is all; they wouldn't have any particular work to do at all.

Q. (By Mr. Nunneley) Normally, where do they keep the tools around the jiggering machine?

A. In a small compartment right where they stand and work they keep the tools laying on the mangle right beside them, reach up and get them on the ledge, and their bench by them.

Q. They don't have to go anywhere to reach them, or put them up at noon?

A. No, they don't, they keep them right by them.

Q. What do they do at night?

A. They leave them on their job, or keep them in their pocket, if they want to, keep them in their pocket, take them home and sharpen them and bring them back the next day.

Q. How large are the tools?

A. The scraper is made from a piece of barrel hoop and ordinarily they make them about a variation of from 4 to 6 inches long, and that sharpens, it is cut on an angle, sharpened on one edge so it will cut the scrap clay off, and

bent over. That is the scrapper, it is just a hand made tool of his own make and the block scraper is a steel scraper about an inch or so wide and approximately 8 or 10 inches long; they vary in lengths and the block, of course, is about the size of the clay as it is flattened out to put on the form and they just take the scraper and scrape over that to see that it is smooth.

Q. That is a wooden block, is it?

A. That is a plaster composition.

Q. When you spoke of it taking one to 3 minutes to get ready to go to work, did you include in that anything besides just fixing the scraper?

A. Well, I say 1 to 3 minutes; I never actually timed a fellow, how long it takes him to get started, but that was just a guess; it would be 1 to 3 minutes that he would include in all the operations, perhaps. He could spend more time at it. He could spend 10 or 12 minutes at it if he wanted to and you really couldn't find any objection to it, because you come along there, you see him scraping his block and he scrapes his block and it is either smooth or it isn't. If it is not smooth enough to suit him he can scrape some more. He could scrape quite a long time on a block. The same thing with a jigger man's scrapper, he may sharpen it up and get it all nice and sharp and ready to go to work and he finds when he starts to work it doesn't cut right, so he re-bends it or re-sharpens it, and they can really spend quite a little time working around or be pretty proficient at it and get it ready and go to work one to 3 minutes; it is pretty hard to set an actual time of 1 to 3 minutes, it would just be average, I would say.

The Master: Coming back in the afternoon after lunch, do they go through the same process as in the morning?

A. Well, this scraping blocks and sharpen scrapers, they do that all during the day. The block would need scraping before noon after starting time, at intervals during the period of time they worked, and the same thing

with the scrapper. If it gets dull they stop and sharpen it up again, and go to work. At noon time it may be, a direct answer to your question—it may be he would kind of string along with a dull tool and go until noon time and then sharpen it up again at noon.

The Master: As I understand it, then, in the morning they don't always start sharpening their tools; they only do that if they are dull at that time?

A. That is right. A lot of fellows—I have noticed jigger men would be right in the department at 6 o'clock, and I would think, well, he isn't going to get started at 6 o'clock, but he apparently had everything all ready to start right in and he didn't have very much sharpening to do and his batter out was ready, and his finisher was ready, and there wasn't very much time elapsed in some instances, but others they would be a different type of fellows and take a lot of time getting their things together.

The Master: Then going down to the end of the shift when they leave for the day, after they have finished their production work, what is there for the men in the department to do, men and women in the department to do, after finishing their production work and before they can leave for home?

A. Well, there isn't anything they are required to do after they quit work.

The Master: Don't they have to change uniforms?

A. Change their uniforms, and as far as sharpening tools and things like that, there wouldn't be anything like that to do.

The Master: Is the only thing they do change uniforms and then dash for home?

A. Well, I would say that would be the practice.

The Master: Do they take a whisk broom and clean up their shelves around them?

A. Well, there are times we ask them, tell them the job is getting kind of dirty where they are standing right by them, and they might be asked to brush a little of the dirt away, yes.

The Master: Is there anything else of that sort? Are those the only two things you can think of; changing uniforms and possibly brushing up around?

A. At the end of the day?

The Master: Yes, before they go home. Do they turn out any lights?

A. They turn out their lights.

The Master: They switch off—

A. They switch off their machine and turn off their dies, if it is at the end of the day.

The Master: Put anything away?

A. No, they don't have anything to put away, just their tools. They are using sponges—a finisher uses a sponge, and she takes time to tuck her sponge away so it isn't in the next operator's way the next morning, or on the afternoon shift.

The Master: All right, go ahead.

Q. (By Mr. Nunneley) These things you have been describing are simply matters of getting their personal tools and equipment ready to go ahead and work, is that right?

A. That is exactly right.

Q. During the day do any of them have to get any supplies, or anything of that sort?

A. Yes. They have a stock room or supply place in the plant, and finishers go there and get their sponges, and a jigger man—he will—some of the jigger men need sponges, too. They go there and get them. Any supplies that they have at all, why, they have to go to the stock room and they do that during the day. Quite often a job will be starting late, because one of the members are at the stock room getting some supplies.

Q. If the finisher goes over to get his sponge, would the other two in the group be working?

A. They can't work until she has obtained her sponge and got back to the job, because they can't run the machine without her being there.

Q. On these so-called automatic machines, can the people work unless the machine is running?

A. No. The machine has got to run before they can be able to work.

The Master: Who turns on the power on the automatic machines?

A. The switch that starts the machine, you mean?

The Master: Yes.

A. The operator starts that.

Q. (By Mr. Nunneley) Did you testify as to the operator being a salaried man, or is he on a production basis?

A. On the machine?

Q. Yes.

A. The operator himself is on the day rate.

Q. He works by the hour?

A. He works by the hour.

Q. Does he punch a clock?

A. He punches a clock.

Q. But he is an hourly rate employee?

A. That is right.

Q. And not a production employee?

A. That is right.

Q. What time do the machines start when the established starting time is 6 o'clock?

Mr. Lamb: Objection.

The Master: Overruled.

Mr. Lamb: Unless he establishes the day which he is referring to.

The Master: Overruled. I don't think you could expect him to testify as to any particular day.

A. The machine never starts except right on the hour. If the starting time is 6 o'clock and the machine is ready to go, the operator throws the switch that starts the machine, but we absolutely forbid him to start it before the hour, and the clock is right by his side, so we never need no excuse to start it before time. We absolutely insist on the machine starting on the hour or thereabout, and not before.

The Master: Is that true of this period from 1938 on, or is that some new rule you established?

A. No, that has been true right along since we have had the machines.

Q. (By Mr. Nunneley) You are referring to the automatic jiggering machines, is that right?

A. That is right.

The Master: When were those machines installed?

A. Those machines were installed—one machine was installed prior—I don't know the exact date, but prior to this wage and hour law, we had one of those machines going and I just can't recall about the second one, whether it was before that or not. I am not absolutely sure about the second machine before the Hour Law took effect in 1938, but I believe we had the machine going then.

The Master: You just have two of those machines?

A. We just have two now.

Mr. Nunneley: We will produce some proof as to when those were purchased.

Q. (By Mr. Nunneley) And if there is a sufficient crew there, those machines start at the proper time?

A. That is right.

Q. The established time, and not before?

A. That is right. We absolutely are there at the starting time to make sure it doesn't start before time. I always saw to that.

Q. Mr. Starner, something was said about a whistle. Do you know how many different shifts there are at the pottery? By that I mean different starting times for different classes of operations; do you know?

A. There are several different starting times for different departments, and that is what I was trying to just fix in my mind, it is back a ways, just how we blew those whistles for those different departments, but there was a little bit of confusion. When we would change a time for a different department, maybe the whistle would confuse, so we would drop the whistle for a while: year in and year out the consistency of the whistle wasn't the same, because the department may start at different times. Just how many departments there are that would have a dif-

ferent starting time, I wouldn't be able to give you the exact number, but there are several different starting times.

Q. In other words, the whole pottery doesn't start at 6 o'clock in the morning?

A. No, that is exactly right.

Q. Some start at 5:30?

A. That is right.

Q. Some 6, some 7, and some after 7, is that correct?

A. That is right, yes.

Q. When you speak of a whistle blowing, do you mean the one on the outside that makes a big noise, or the one on the inside?

A. That is the one I mean, the one on the outside.

Q. Now, Mr. Starner, referring to the time clock cards, do you know how the hours are figured from the punch in on the clock?

A. Yes, I know that if they punch in before—between 14 minutes to 6 and 6 o'clock, their time actually starts at 6 o'clock. And I don't only know that but I have made sure that all the people working there know that. • • •

Q. (By Mr. Nunneley) And when they leave the department, how is it figured?

A. When they leave the department at 10:30 their time stops at 10:30. And they can ring their card out within the quarter hour, in the 14 minutes time. They can't wait till 10:45 and ring their card. They must ring it out before that in order for the time to stop at 10:30.

Q. And does the same rule apply to the going in and coming out after lunch?

A. The same applies all the way through.

Q. Now, Mr. Starner, knowing the method of computation of time, would you say that the people in your department generally worked more time than is shown on the time clock cards, computed in that manner?

Mr. Lamb: Objection. That is entirely improper.

The Master: I think that calls for a conclusion. You have asked for the specific evidentiary facts upon which the Court or the attorneys can draw the conclusion. • • •

Mr. Nunneley: I will try to ask the same question.

Q. (By Mr. Nunneley) Knowing the method of computation which the company followed in dealing with the hours of the various employees, did employees in your department under your observation actually work more hours than were computed and credited to them by the company?

Mr. Lamb: Same objection.

The Master: Your objection is noted, the same objections that you made to the previous question.

A. Well, put that in detail, probably you would want that in detail.

The Master: Give the best answer you can, or if you can't answer, state you can't.

A. Well, the best I could answer that would be that the people did not work more than the time computed on their time cards, as methods which were specified here before, unless there was some way they could do it without our knowledge, and we are in the department at all times, unless there is some way they could do it without us knowing about it, and I don't see how they could. Therefore, I would say people do not work any more than the time shown on their card by that method of computation.

Mr. Lamb: I move the answer be stricken.

The Master: I will take that motion under advisement.

* * *

The Master: The question is, did any of the employees object to you as to the way the time was computed?

A. So far as the computing of the time, people didn't object to the method, except that they would like to stay longer, or something like that; if that would be an objection, they would actually like to work more time than would show on the card. So far as objecting to the time or method of showing their time, actual working time, they never really objected to that to my knowledge.

The Master: Did you ever have an objection from any employee made to you, that the employee thought the com-

pany was not computing his time correctly under the Wage and Hour Act and not paying them the time and a half that they thought they were entitled to?

A. No, I never did hear an objection to that at all.

* * *

Q. (By Mr. Nunneley) Mr. Starner, did you ever take employees' cards and punch them out for them while they were working?

A. I have been there a good many years and never did that in my life. Or never would allow any other foreman in connection with me to do the same. Absolutely against the rule. * * *

Q. (By Mr. Nunneley). Mr. Starner, in connection with this jiggering work, there are certain molds that are placed on the machine, is that it?

A. In connection with the jiggering work, yes. These molds or forms are in these conveyors, and they stay in the conveyor except they take it out and put the ware on them and put them back until the molds are worn out or need to be changed to some other form.

Q. Who did the mold changing?

A. The jiggerman and the batter-out always did the mold changing.

Q. Was that done during the time after they punched in?

A. That was all done within their working hours.

Q. Do you know of any of them punching out and then going back and changing their molds afterwards? Did you ever see or hear of that being done?

A. I never heard of it being done. I knew a lot of fellows that wanted to do it. I have been asked by several of them in the department at different times.

The Master: Will you name the individuals you have been asked by?

A. Well, I have been asked by John Metz.

The Master: Can you give the approximate time?

A. The time—

The Master: Give the time, place and conversation.

A. I couldn't give you the exact day.

The Master: Well, to the best of your recollection.

A. To the best of my recollection would be—well, frequently Metz and Walter Zelk and Earl Larimer, and I possibly could name some more, several of them asked if they could ring out and come back and change their molds on their own time, because then they could spend all their time producing ware, which would make more money for them, and I told them I could not give them that privilege and would not, and in persisting, I would tell them to go to Mr. Doll and ask him, but I knew he wouldn't let them, because he wouldn't be complying with the law. The only fellow that I knew that could possibly give them that privilege would be Mr. Roosevelt. And never gave anybody any satisfaction at all. Absolutely wouldn't consider them coming in after they had rang out and changing molds. I absolutely forbade it.

The Master: Did you ever know whether, in violation of your instructions, anybody did do that?

A. Not to my knowledge.

The Master: Do you know whether there was a time before the Wage and Hour Act went into effect when the molds were changed, before the employees had punched in on Monday mornings?

A. Before the law went into effect? Well, years ago there probably was times when an ambitious fellow would like to work longer than the departmental work.

The Master: Was there any time when there was a plant practice to that effect, that the employees would come in and change the molds and go out and punch their card?

A. There never was a time when they were required to change molds after punching their time clock. Never was a time.

The Master: Neither before or after the Wage and Hour Act?

A. Neither before or after the Wage and Hour Law; no.

Q. (By Mr. Nunneley) Now, Mr. Starner, you say these people have to acquire certain equipment, such as sponges, is that right?

A. That is right.

Q. What other equipment did they have to acquire?

A. Why, these sponges—you mean buy?

Q. Yes.

A. Well, as I said before, they buy these scrapers and—well, lately they haven't been buying many of those. One of them lasts quite a long time. Sponges they buy regular, daily, and they will also buy a pail. A jigger-man furnishes a water pail for the job and he buys those out of the stockroom.

The Master: Let's separate that into the three classes of workmen, the jiggerman, the batter-out, and finisher.

A. Yes.

The Master: The finishers buy sponges?

A. Of course, your Honor, the finishers buy their sponges—let's see—the finishers buy the sponges for the jiggermen. The jiggerman pays for the sponges, but the finisher buys them.

The Master: The finisher orders them?

A. Yes.

The Master: And then it comes out of the jiggerman's pay?

A. Yes.

The Master: Does the batter-out use sponges?

A. The batter-out only uses sponges where the finisher would find one he couldn't use, and he would take it.

The Master: Who pays for that?

A. The jiggerman would pay for that, too.

The Master: When the batter-out needs one, the jiggerman pays for it?

A. Yes.

The Master: As to the scrapers or scrappers, who pays for those?

A. The scrapers, the jiggerman paid for those, too.

The Master: And neither the batter-out nor the finisher needs to buy or pay for any scrapers?

A. No.

The Master: And the pails, you say the jiggerman—

A. (Interrupting) The jiggerman bought those, too.

The Master: Are there any other classes of equipment that either of those three buy?

Mr. Nunneley: I didn't hear that last question.

The Master: I am asking him whether there is any other classes of equipment that any of the three types of employees buy?

A. Yes, sometimes a finisher or batter-out or jiggerman may want a finger stall, they buy those; we also carry and supply them in the stockroom. They can get them any time during the day. Those are really the main supplies. I can't think of anything else that they would have to have on the job that they would be required to buy right offhand.

The Master: Do you know how often during the course of a year a particular jiggerman would need to buy a new scraper?

A. Well, by my own experience on those jobs, and observation, I would say a scraper would go a man years.

The Master: Considering the possibility of loss, theft, and everything?

A. Well, very few of them have ever been stolen.

The Master: Well, not as to what they ought to go, about how often, according to your best observation—what is your best estimate of how long they last the jiggerman?

A. That is the block scraper or the scrappers?

The Master: Take them both in succession, first the scrapers?

A. The scrapers would probably last one to three years, I just would guess.

The Master: In other words, if I started out as a jiggerman in a plant and had a scraper, I wouldn't expect to replace it on the average of from one to three years?

A. That is right.

The Master: And the scrapper?

A. He makes it himself out of rusty barrel hoop.

The Master: That doesn't cost him anything?

A. That doesn't cost him anything.

The Master: Forget that then. How about the sponges, how many sponges would be used up in the course of a year?

A. Well, a sponge will go from one to three days. It may last a day, it may not. They most always would last a day; you can't say a sponge would go two days. Sometimes they would have sponges that would last three days. We have had sponges in there, when we could get pretty good sponges, we have known of them to last a week.

The Master: And how much does a sponge cost, on the average?

A. On the average?

The Master: Yes; we had some evidence on that.

A. Well, we have different prices of sponges, and I would say the average price would be around 35 cents. That is the price they pay—is that what you want to know?

The Master: Yes.

A. 30 to 35 cents; we have some as low—we have sold a lot of sponges in there at around 16 cents.

The Master: Do you have different grades of sponges? And the jiggermen or finisher can take his or her choice?

A. That is right.

The Master: How much do the scrapers cost?

A. They never cost over a quarter.

The Master: How many scrapers will a particular jiggerman have at one time?

A. Well, he would never buy more than one at a time.

The Master: He never uses more than one or never has more than one?

A. He might have two; quite often they will have two scrapers, and it has been quite a long time, your Honor, since we actually had to buy the scrapers, because they don't wear out very fast.

The Master: Now, there was something else you said they had to buy?

Mr. Lamb: A pail?

A. A pail.

The Master: How often does a jiggerman have to buy a pail on the average?

A. A pail, he doesn't have to buy very often because they are galvanized pails and they don't have hard usage and if they spring a leak, or something, they are taken to the repair shop and are repaired.

The Master: Don't people walk off with them from time to time?

A. Sometimes one jiggerman might exchange his for another, or something like that, but that really doesn't happen very often.

The Master: How much do the pails cost?

A. The pails cost 25 cents.

Mr. Lamb: What was the answer as to how long they would last, around a year?

A. It would be pretty hard to determine the life of the pails; I would say they would last, oh, I don't know, it would be pretty hard to guess how long a pail would last, it would last at least a year, I would say.

The Master: This is the life to a jiggerman; how long before on the average he has to buy a new pail because either of the wearing out or theft or loss, or any other reason?

A. Well, I would say—

The Master: Not just the visible wearing qualities.

A. Oh, I don't think he would have to buy more than one a year.

The Master: All right, go ahead, Mr. Nunneley.

Q. (By Mr. Nunneley) You have been in the pottery how many years?

A. About 19 years.

Q. Has that been the custom all the time you have been there as to the jiggermen furnishing these various equipment, up until April, 1941?

Mr. Lamb: Objection, as to what the people did prior to October 24, 1938, is immaterial. We are filing this action seeking this redress for the period from October 24, 1938.

The Master: Well, I will take his answer. I will find out what the historical background is. It may not have much bearing, but it has some.

A. Those supplies that these jiggermen, batter-outs and finishers use are a common pottery supply sponges, known as potters sponges, and things they use, and I would say all my life I have known that they always have used the same method; a jiggerman has always furnished these himself, that is, he has paid for them.

Mr. Lamb: Just a second so I can get my request that the answer be stricken.

The Master: I will let it stand on the record, noting your motion.

Q. Do you recall, or did you have any experience with potteries back far enough at the time when the jiggerman also paid the people that worked with him?

A. Yes.

Mr. Lamb: Objection to that. "Back far enough" doesn't define the period involved, and our objection still continues as to the immateriality of the period before October 24, 1938. * * *

The Master: Well, let us get the answer. Read the question.

(Question read.)

A. It has always been the custom that the jiggermen furnish supplies for the job, used by the finisher and batter-out and himself.

Mr. Lamb: I ask that the answer be stricken.

The Master: I will take the motion under advisement until the close of the case.

Q. (By Mr. Nunneley) Did you ever instruct the people in your department that they had to come in at 14 minutes to 6:00?

A. No, sir, never did. The only thing that I told them was that they could ring in at 14 minutes to 6:00 if they

wanted to, but their time would not start until 6 o'clock. If they came in before that, that was entirely on their own, because we just gave them those few minutes time to ring in, because we were aware there was so many ringing in at the same time that it would take a few minutes for them to ring in. If they came in 14 minutes to, and then didn't start until 6 o'clock, and everyone understood it.

The Master: Did your whole department line up before the time clock at the same time?

A. Did they all line up?

The Master: Yes.

A. Quite often there would be several in line.

The Master: There has been testimony here that the men went in by departments, that one department would line up and punch the time clock and another department would come in and punch it.

A. No, I don't see how they could do that. They wasn't doing that. Our folks in our department wouldn't all come in like that. They would have to be there awful early in the morning in order to get lined up by departments. We forbid them to get in front of anybody that was already lined up at the clock.

The Master: Let's see now. In your department they were using clock B, the north clock?

A. Using the north clock.

The Master: And there were several other departments using that clock?

A. That is right.

The Master: You mean, then, anybody using that clock would just line up and punch the clock without regard to what department he worked in?

A. That is exactly right.

The Master: Or whether the others lining up with him were in the same department?

A. That is exactly right.

Q. (By Mr. Nunneley) Mr. Starner, do you know John Metz?

A. I do, sir.

Q. In your observation would you say John Metz ever worked more than the time shown on his time clock card, according to the company's method of computation?

Mr. Lamb: Objection.

The Master: I think I will sustain the objection to that. * * *

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Mr. Nunneley: Do you remember what the last question was, Mr. Reporter?

The Master: You asked him whether or not certain workman, John Metz, I believe, had ever worked over the time with which he was credited on the time clock cards by the company, and I thought it was a conclusion, or was asking for a conclusion. You would have to break it up.

Q. (By Mr. Nunneley) Now, Mr. Starner, I will show you some cards which have been marked Exhibit 31, and then 31-A, B, C, D, and so forth, to 31-AA, through 31-LL, which have been heretofore identified in this case as the time clock cards of John Metz, from November 7, 1939, to April 15, 1941, and I will particularly ask you to look now at Exhibit 31, being time clock card for the pay period from November 7, 1939, and will you examine the card with reference to the times when Mr. Metz appears by the card to have punched the clock in and out respectively (handing exhibits to witness); and, will you advise us during that period whether Mr. Metz actually worked any more hours than are shown by the computation on the card.

Mr. Lamb: Objection.

The Master: I will take the answer. • • •

A. My answer to that would be that John Metz has not worked any more than the hours computed on the card here.

Mr. Lamb: I ask that the answer be stricken.

The Master: I will let it stand as his testimony. • • •

Q. (By Mr. Nunneley) Yesterday the Master asked you some question as to how many hours the employees normally worked prior to the coming in of the Wage and Hour Act, and I believe you stated that preparation had been made to observe the law before it came into effect, or something of that sort?

A. That is right. • • •

Q. (By Mr. Nunneley) In other words, how many days a week, we will say, outside of the seven-day-a-week operations, were the rest of the folks operating for a year or so prior to the coming in of the law?

Mr. Lamb: Objection.

The Master: I will take it as part of the historical background. I won't let him go into any detail.

A. Well, prior to any effect of the law, we worked just nine-hour days. Never worked over that. That was our base.

Q. (By Mr. Nunneley) That was your base?

A. If we had enough work for them.

Q. If you had enough work for them. How many days a week?

A. Just 5 days a week.

Q. 5 days a week. So that the basic work week before the coming in of the law was 45 hours, if there was work enough?

A. That is right. • • •

Q. Now, Mr. Starner, showing you this Exhibit 31, it shows that on the first Monday that Mr. Metz punched in on the morning shift in that week, what time does it show that he went by the clock?

A. The clock time on the card here is 5:49.

Q. From your experience in the department, observation of the employees, including Mr. Metz, what would you say as to whether or not he started to work before six o'clock?

Mr. Lamb: Objection.

The Master: Overruled. I think the very same type of question was asked plaintiffs when they were on the stand, and they were answering on the basis of their general experience, because each one of them said they couldn't tell the time they started to work on any particular day except by general testimony as to what they normally would have done. • • •

A. In regards to the time this fellow started to work, I would say if he rang in at 5:49, it would take approximately four minutes to get to the job, which would make it 5:53. Then by the time he got his shirt off and got his tools ready and everything all started, ready to go to work, it wouldn't be very much before—if any, before 6 o'clock when the fellow actually got started.

Q. (By Mr. Nunneley) Would that—

A. (Interrupting) I would say that fellow wouldn't be starting very much before 6 o'clock when he didn't ring in until 5:49.

Q. Would that also be dependent upon the question of whether the rest of the crew was there or not?

A. If the rest of the crew had been there and was waiting for him, that would be the actual time he would get started, but if they weren't there, naturally he

couldn't start. He can't start the machine, can't start producing ware—or can't start production until the rest of the crew are there. So he actually might be the first one in of the group of three.

The Master: Let me get this clear. With the batter-out, jigger man and the finisher, is there any one of them that can do any work at all, production work, before the other two arrive?

A. The jigger man, he can't jigger a piece of ware until the batter-out has put the clay on the form.

The Master: If the batter-out gets there—

Mr. Nunneley (interposing): Perhaps we can explain the process.

A. If the batter-out would put the clay on the form before the jigger man is there, it would only take a few seconds until that clay on the form would be wasted, because it couldn't wait.

The Master: I see.

A. And the form is very absorbent, plaster-of-paris, and it draws the moisture out of the clay very readily, and the minute it is low in moisture content, it couldn't be jiggered, couldn't be polished up to smoothness.

So they always work hand in hand. If he puts the bats on the forms, they are handed to the jigger man and jiggered immediately.

The Master: If the batter-out arrives and the jigger man isn't there, the batter-out won't take a chance on the jigger man's coming in?

A. No, he would be foolish if he attempted to put bats out and wait for him, because even if the jigger man was standing right there and ready to go to work, or was in the department, and the batter-out was ready to go to work, he wouldn't put bats on right away, because he

would wait until the jigger man got his shirt off and his uniform changed and was there in the position and had his scrapper in his hand and gave a signal and would say, "I am ready for a form." He would be foolish to start out ahead of him. He would be wasting his energy.

The Master: Now let's see as to the finisher, just what does the finisher do?

A. The finisher, she can't work until the jigger man and batter-out have started the machine, because the machine is entirely enclosed and it is only open where she stands. As the machine starts, these forms come by her with the ware on, and she takes it off as it comes by and finishes it. If the machine does not start she can't do anything, she is just helpless, she just sits there.

The Master: I believe we have testimony on it before, but it has slipped my mind; what does the finisher do in finishing the ware?

A. She takes it off the forms and places it on what we call the whirler, and takes the finishing tin, or finishing steel, either one you may call it, and starts her whirler in motion by motor-driven, presses a switch and starts it in motion. She holds this tin on the edges, and as it is turning around the tin cuts off the rough part of the edge of the piece of ware and has a tendency to bring about the correct outline of the piece of ware which is not smooth, but it is smoother than it was before she put the tin on. The ragged edges are off. Then she takes the sponge, a wet sponge, and she sponges that edge until it is all nice and smooth, shows no jaggedness or rough or nicks, or anything like that, makes it all nice and smooth, and after she has her edges nice and smooth she inspects the faces and sponges them. Of this same ware she takes off probably 15 or 20 pieces at a time and finishes that

many, and as she has finished the edges then she sponges the faces of them with a sponge, while the motor is in motion, and unless her molds are new, and she doesn't have to sponge the faces, then she sets them over on a stand and on the stand she places what we call a setter; it is made out of a clay composition; and it has already been fired and it is hard and it holds the ware up so she sets it on there and inspects the faces and the entire piece of ware, and counts up so many, whatever is in the bundle, 15, 18 or 20 pieces, and then takes them from this stand and places them on a truck which is by her side, on a board, from 15 to 20 boards are on the truck—either 15 or 20.

Q. (By Mr. Nunneley) Now, to make that clear, what they call the slip house is where they mix up the clay?

A. That is right.

Q. The clay comes more or less in powdered form or dirt form?

A. The clay comes to the slip house as it would be right direct from the mines, and of course there is a lot of detail in that that has to be—there has to be several different kinds of clay put together.

Q. Then it is mixed there with water, is that correct, in the slip house?

A. That is right.

Q. And it goes into what is known as the presses, we have heard some talk about press-pulling, and so on?

A. Yes.

Q. When it comes out of the presses, what shape is it in?

A. When it comes out of the presses it is in what we call leaves, they are possibly that much (indicating) in diameter.

The Master: That is how much, 3 feet?

A. I wouldn't be able—probably 2 feet; I would just guess at that, I never measured one of them.

Q. (By Mr. Nunneley) It looks like a pancake?

A. 2½ feet wide, and it is round, and 2 inches thick.

Q. Looks like a big pancake?

A. Yes.

Q. Then what is done with that clay, how does that get to where the jigger man uses it?

A. Then after it is taken from those presses it is put in the—

Q. (Interposing) Is it still wet then?

A. Well, it is wet, but it is not in slip form by any means, it is wet, you can handle it.

Q. It is in liquid form—

A. (Interposing) When it is put in the presses it is in liquid form and when taken out of the presses it is in plastic form, however its plasticity is not uniform; in the center it may be pretty soft, and it is not uniform enough to form a piece of ware with, so they take it from there on a platform to what we call a pug mill, and they take these leaves and pug them into the pug mill, and this pug mill, the average would represent a good big sized sausage grinder; it is chopped up in fine pieces, and as it enters the top of the mill the mill is turning around and chops it up as it goes down through this large mill, and, why, there is a tremendous pressure put on it and that presses out all of the air blibs; the air pockets are pressed out of it, and the clay is turned up to such an extent so that it is all uniform and plastic, so you take a ball the size of your hand, it would be all the same so that you can form a piece of ware out of it and the ware would be uniform all the way through, and it has got to have the right moisture content in order

for it to be soft enough to be plastic and still stiff enough to hold together while you are handling it, and it is placed on these molds.

Q. Then what was done with it? What is the next step after that?

A. After it is put in this pug mill and pressed out it comes out into a roll. I don't know the exact diameter. Approximately about like that (indicating); maybe 8 or 10 inches in diameter. It comes out of this mill in a roll, and then what we call the pugger—

The Master (Interposing): What do you mean "roll"? A circular piece or straight roll?

A. Just a straight roll being forced right out of the mill. There is a nozzle about 8 or 10 inches in diameter, and this clay is pressed out of the nozzle and forms a roll about 8 or 10 inches in diameter. It keeps pushing out into a platform, and what we call a pugger takes the wire and cuts off its rolls in lengths approximately like that (indicating).

The Master: That would be about 2½ feet?

A. About 2½ feet, yes, about 60 pounds of clay it amounts to. He takes it off of this mill and places it on a wheeled cart or truck, just a hand-pushed cart, and he fills that cart up with, probably, 25 rolls of this clay, and then we have what we call a clay-hauler. He takes the clay out to these stations where these fellows are working and places it on their benches.

Q. (By Mr. Nunneley) When it gets to those benches, by that you mean that is where the jigger man—

A. (Interrupting) That is where the jigger man and batter-out are working.

Q. Then who handles it first? When it gets to the bench, what is done with it?

A. After it is put on the bench the next man that handles it is the batter-out.

Q. What does he do?

A. He takes a handful of this clay and places it on his block. We call it a block where he puts the clay and rolls it out, and gets it smooth on the block side, and then he has a die, electric-heated die, which could be referred to as a batting-out die, and this is suspended by a spring suspension above this block. It has hand hooks on it so that he can take a hold of it without burning himself, and he brings that down with a little force and flattens this clay out into pancake form.

Q. In other words, he makes a pancake of it?

A. He makes the pancake.

Q. Then what is done with that?

A. Then after he has the pancake made he tries to get them all a certain size and certain thickness, and then he picks it up, lets go of his bat, and picks up this pancake of clay, and picks it up to the air like this (indicating), and throws it onto the mould, and after he throws it on there the next operation is the jigger man. * * *

The Master: Go ahead.

A. Now, the jigger man takes it from the batter-out and puts it into what we call a jigger wheel. It is a wheel that is spinning all the time immediately before him. It runs simultaneously with the mangle itself.

He takes this form of mould, and it is designed to fit into this ring. So, he takes it and sets it in there, and while it is in motion there, naturally it spins around, so he puts his hand on there, wets his hand and puts it on there and holds it firmly, and places his hand more firmly, on the mould, and puts his jiggering tool down. It is on what we call a pull-down. It is not a hinge, but a bearing

so that it comes down to a certain point every time. It is pulled up with spring tension, and he pulls it down by himself so that it comes down easy and gets down to the clay, and he eases that in there until the tool gets down to as far as it is going, which comes within approximately, oh, one hundred thousandths of an inch of the piece of ware itself or the mould itself which comes down to that certain gauge.

He shoves off the scrap clay and presses a spray-gun which is suspended right there by the wheel, and water from the spray gun, and the centrifugal force, he polishes that clay up after he gets the surplus off. That would be what we call a jiggering operation. After he has got the surplus clay off of there, and the piece of ware polished, he raises his tool up and then picks the mould up and sets it into this mangle or conveyor, on the conveyor that is in the mangle, and it goes through there and the mangle is being steam heated. It helps to bring the clay form of ware free from this mould so that when it gets to the finisher she can pick it off.

The Master: Hardens it at the same time?

A. Just hardens it, yes.

Q. (By Mr. Nunneley) So that in speaking of the operation I think you said yesterday this fellow that hauls the clay to them, he comes earlier than the rest of them?

A. That is the fellow that comes in early, yes.

Q. He comes in early to have it there by the starting time?

A. Yes.

The Master: This process, in other words, has to be done more or less continuously. They can't haul the clay in at night and have a lot of it stacked up?

A. That is right. • • •

Q. (By Mr. Nunneley) I think we were talking about the card of Mr. Metz which showed he came in at 5:49, and did you testify that on that occasion he didn't start to work before 6 o'clock?

A. That is right, sir.

Q. On Exhibit 31, it appears that on the Monday shown thereon, as being in the morning shift, that Mr. Metz punched the time clock out at 10:31?

A. That is correct. • • •

Q. (By Mr. Nunneley) Would you say on that occasion that Mr. Metz worked until 10:30 in the department?

A. I would say that Mr. Metz couldn't hardly work until 10:30 because he couldn't work until 10:30 and ring out at 10:31. I don't think it is possible to get to the time clock in that length of time, if he didn't have a thing to do, but he has his hands all covered with clay and his arms; he has got a dirty apron on; he has to wash his hands; he first washes his hands there at the job when he quits jiggering, and his arms, with a sponge, and then he would take his apron off, put on a shirt—.

Mr. Lamb: Is this before or after he punched the time clock?

A. Before he punched the time clock, while he is still at his bench. By the time he gets his shirt on and then possibly stops at the toilet room where there is washing facilities in there, on his way to the time clock, I would say it would be impossible for him to work until 10:30.

• • •

The Master: Do you have any estimate, apart from the distance, as to how long it would normally take Mr. Metz or anyone else working in that department, at these mangles at the extreme west of the plant, to walk from the time clock to the manlges, by the usual gait at which they walk?

A. Well, from the time clock up to this section of mangles here in question, I would say in my estimated time consumed, it would be 6 or 7 minutes.

The Master: How long do you think it would take them to get back at noon from the mangles to the time clock?

• • •

A. Chances are he would walk a little faster, and by observation I would say he would walk faster. Sometimes they run, you have a hard time keeping them from running. Probably cut that down.

The Master: To about what?

A. Oh, you might at least cut a minute off there. He might make it in 6 minutes.

The Master: If this is 700 feet from the time clock to the mangles, and it takes them 6 or 7 minutes to get over, he is walking a little over 100 feet a minute, which according to my calculations would be at the rate of about 50 minutes to walk a mile. Do they walk that slowly?

A. Well, no, they probably don't. But I am basing my opinion on the observation of the time I have noticed it takes them to go from the time clock to here and from here back to the time clock by observation. Now, they don't always just beat it right out. As I said a moment ago, they stop here a lot of times. Most of the time they stop here and wash up before going out to the time clock.

The Master: Didn't you say yesterday—

A. I can't say they stopped there every time, but they do frequently stop there.

The Master: Didn't you say yesterday they went out on more or less of a run?

A. Yes, they do attempt to, but we don't allow them to do that.

The Master: They walk just as fast as they can without running?

A. They might actually go more hurriedly, but I don't say they run, because we don't permit it. If we catch anybody running, of course, we immediately stop them.

The Master: Would you think that it would take them—well, suppose it is 800 feet. Take the maximum distance that is given on the map there from the time clock A to these mangles. You say they might get out conceivably in 6 minutes. That would be at the rate of 133 feet per minute or about 40 minutes to walk a mile.

Mr. Nunneley: That includes what he did when he stopped, like washing up, and so on.

The Master: I was asking just the distance, or the time it would take to walk, once he is finished with his work, and cleaned up, put his tools away.

A. You mean from the time he is ready to leave here, until he gets to the clock?

The Master: Yes. Was your answer given with the idea of giving the complete time from the time he stopped production work until he got over to the clock?

A. Originally when I said—no, that wouldn't include all that.

The Master: Let us break that down and get this clear.

A. Let's see, now, I said the time it would take him—I couldn't tell you exactly how much time it would take the man, but you can see readily if his hands are full of clay up to his arms, and he sponges it off with a sponge, and takes off his apron and gets on his shirt and goes from there to the time clock, stopping on the way, that is really what was meant. It would take about 7 minutes.

The Master: In giving 6 minutes did you mean all that time, the time he cleaned up and the time he went to the toilet, if he went to the toilet?

A. Well, if he went in the toilet it would take more

time. I am just giving you what I would say would be the average time it takes these fellows from the time they quit work until they get to the time clock.

The Master: Can you give an estimate as to the length of time it takes them after they have quit work and cleaned up and are ready to walk along the route to the time clock to get from the mangles to the time clock at the gait they ordinarily walk at?

A. Well, your honor, I don't think you have taken into consideration the fact that this aisleway that these people travel on had a certain amount of congestion.

The Master: I am just asking you.

A. Probably you want to discredit the time I say it takes.

The Master: No. I want your estimate.

A. There are several things which cause a fellow to stop and pause a minute. A truck is in his way here, or maybe somebody is coming out here with a load of clay or a truck of ware. There are a lof of things that take up their time, and that is why we forbid them to run, because there are so many things that can get in the way, we insist on them not to exceed a moderate rate going through there.

The Master: Just give your best estimate of the time, regardless of what other people think about it. I was just pointing out and asking whether your estimate was correct, but I would like to get your estimate.

A. I would figure from the time clock up here the best time a fellow could posibly make in all reasonableness would be 5 minutes from the time he walks here down to there.

Mr. Lamb: Would you indicate what you meant by "here to there"?

The Master: You are now speaking, to get the record

clear, of the time it takes him to walk from these mangles at the extreme west to the time clock A when he is leaving at noon, or in the afternoon when he is through work; is that right?

A. That is right. If a fellow goes right along.

The Master: Now, how long would it take him to get from the time clock A, to the mangles, proceeding in the opposite direction when he comes in in the morning, or when he comes back after lunch?

A. To get from the time clock A to the mangles?

The Master: Yes, to the same mangles at the west end of the plant?

A. Well, you never see them walking very fast, so it would take him longer to get from time clock A to his bench in the morning.

The Master: What is your estimate as to that amount of time?

A. Well, a rough estimate there would be approximately 6 minutes.

The Master: Have you ever timed with a stop watch the actual time it takes?

A. No, I haven't taken from the time clock up here (indicating), I haven't done that.

The Master: Or with any kind of a watch?

A. No.

The Master: Have you ever walked the distance with the employees to see how long it takes them?

A. No; the only thing I am basing my opinion on is the observation from being in the department when the people come in, noticing the time they arrive at the department when they come in in the morning, and notice the time that they are consuming going out of there after the work hour.

Q. (By Mr. Nunneley): I guess you can be seated,